

ENDING *ENDLESS PUNISHMENT*

EXCESSIVE SENTENCING, TRANSFORMATION,
AND THE CASE FOR SECOND LOOK IN NEW YORK



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Dedication

This report is dedicated to the memory of **James Garbarino**, professor of human development and a renowned scholar of childhood trauma, whose work has informed and inspired so many of us, inside and out.

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Executive SUMMARY

New York has substantially reduced the number of people entering its prisons, yet it has left largely intact a core population serving sentences measured in decades and lifetimes. Thousands remain incarcerated under sentencing regimes imposed many years ago—often during periods marked by punitive excess, racialized enforcement, and political fear—without any meaningful mechanism for judicial reconsideration. The Second Look Act responds to this structural imbalance by creating an opportunity to reassess whether continued incarceration still serves justice, safety, or repair.

The legislation rests on the simple yet consequential premise that punishment should not be immune to the passage of time, the accumulation of evidence, or human change. Sentences are imposed at a single moment, frequently using incomplete information and assumptions that may not hold up over time. They require judges to impose sentences based on long-term predictions about risk and rehabilitation that empirical research has repeatedly shown to be unreliable, particularly when sentences extend decades into the future. Second Look reflects a basic institutional limitation: no sentencing system can assume that a punishment imposed today will

remain justified decades later. This report argues that Second Look legislation is neither an act of leniency nor an exceptional remedy for unusual cases. It is a bare-minimum correction to a sentencing system that has normalized excessive punishments while offering almost no opportunity to revisit them. Long sentences routinely extend well past the point at which they serve any plausible public safety purpose, with little additional deterrent effect and significant human and fiscal costs.

Drawing on criminological research, fiscal analysis, comparative state experience, judicial testimony, and the perspectives of incarcerated scholars, this report demonstrates several core findings:

- **People change in ways sentencing courts cannot foresee.** Research consistently shows that individuals age out of crime. Recidivism rates fall sharply after long periods of incarceration — including among people convicted of serious offenses — yet sentencing law rarely builds in any mechanism to account for this.
- **Excessive sentences undermine public safety rather than advance it.** Additional decades of incarceration produce

diminishing preventive returns. Meanwhile, the resources they consume could instead fund survivor services, prevention, and community-based safety strategies with stronger evidence behind them.

- **Existing post-conviction mechanisms are structurally inadequate.** Parole, medical parole, clemency, and targeted resentencing statutes each address narrow circumstances. None provides a systematic pathway for reviewing decades-long sentences based on the merits.
- **Sentencing review is not the same as automatic release.** Second Look guarantees a process, not an outcome, preserving judicial discretion and requiring thorough evaluation.
- **Where resentencing review exists, recidivism rates are extremely low.** Individuals released after long sentences—including for serious offenses—return to prison at remarkably low rates.
- **Breadth determines legislative success.** Statutes that rely on narrow eligibility criteria, categorical exclusions, or prosecutorial gatekeeping often fail to reach the people most affected by excessive sentencing. Broad, petitioner-initiated judicial review models

better reflect the evidence and are more equitable in practice—including, crucially, for the people serving the longest sentences, most of whom were convicted of serious offenses and are disproportionately Black.

For New York, the stakes are particularly high. While the state has reduced prison admissions, it has not yet confronted the permanence of punishment already imposed. Without a comprehensive Second Look Act, decarceration efforts will remain stalled at their most punitive edge, preserving a system in which thousands are effectively condemned to die in prison regardless of demonstrated transformation or diminished risk.

This report recommends a comprehensive, retroactive, petitioner-initiated Second Look framework without categorical exclusions. Such legislation would not erase harm or relieve anyone of accountability. Instead, it would require that continued incarceration be justified by present circumstances rather than allowed to persist through historical inertia alone.

For these reasons, the Second Look Act is not just sentencing reform. It is an admission that a legal system with no mechanism for revisiting the punishments it once imposed cannot fully honor its own commitments. By permitting courts to look again, New York can take a necessary step toward a system grounded in true public safety and human dignity.

WHY LONG SENTENCES REQUIRE RECONSIDERATION

After four years of deliberation in the New York State Legislature, the Second Look Act will again be debated during the 2026 legislative session. Introduced as Senate Bill S158 and Assembly Bill A1283, the legislation would allow incarcerated individuals to petition a court for resentencing after serving a substantial portion of their original terms.¹ The bill responds to a fundamental gap in New York’s sentencing framework: people serving lengthy and life sentences, often imposed decades ago under now-discredited punitive norms, have no meaningful legal mechanism to ask whether continued incarceration remains justified. New York does have an existing resentencing statute known as CPL 440.20, but it requires petitioners to show that their sentence is illegal or unlawful, a threshold that puts it out of reach for the vast majority of people serving excessive but technically valid sentences.² S158/A1283 would create a systematic statutory pathway that neither 440.20 nor constitutional litigation can provide.

Over the last two decades, New York has enacted reforms that significantly reduced the number of people entering prison, particularly through changes to drug sentencing and probation enforcement. Targeted resentencing provisions accompanying the Rockefeller Drug Law reforms did bring a meaningful number of people home, but those provisions were limited to drug offenses and could not reach people convicted of violent crimes or serving the longest sentences. Most reform has operated at the “front end” of the system. As a result, while the overall prison population has declined, the remaining population is increasingly concentrated among individuals serving decades-long and life sentences. The state has reduced prison admissions without confronting the permanence of punishment already imposed.³

Support for the Second Look Act reflects growing recognition that this imbalance is neither sustainable nor just. The legislation has drawn endorsement from senior members of the judiciary, former corrections officials, labor organizations, and hundreds of legal and civil rights organizations. Public opinion research similarly indicates broad support for sentencing review across demographic and political lines. A 2024 statewide poll found that 68 percent of New York voters support allowing

rehabilitated individuals to petition for resentencing.⁴ These findings suggest that reconsideration of excessive punishment has moved from the margins of debate into the center of New York’s policy landscape.

The most prominent institutional voice behind the legislation is that of Chief Judge Rowan Wilson, who made the Second Look Act the centerpiece of his February 2025 State of the Judiciary address—an occasion he used to invite currently and formerly incarcerated New Yorkers to speak before the state’s top judicial and legislative officials. Wilson was direct about the system’s failures: “Put simply, our criminal justice system isn’t working. Maybe it hasn’t really ever worked.”⁵ He called on the legislature to pass legislation that “would allow those serving long prison sentences to demonstrate to a judge that their continued incarceration is no longer justified,” and stressed the judiciary’s direct responsibility: “No prosecutor, jury, legislator or executive branch official imposed a prison sentence. Everyone sentenced to a New York prison was sentenced by a judge of the Unified Court System.”⁶ Chief Administrative Judge Joseph Zayas offered a complementary perspective in a Law Journal editorial the prior month, writing that “many people... who commit crimes are not incorrigible, or beyond the capacity for change and redemption.”⁷ DOCCS Commissioner Daniel Martuscello, the sitting head

of the state’s prison system, appeared alongside Chief Judge Wilson at the address and called for changing the narrative “so that those impacted by the criminal justice system may be defined by the person they are today and the totality of their experiences, rather than the worst mistake of their lives.”⁸ That the state’s corrections commissioner aligned himself publicly with sentence review reform challenges the assumption that those closest to the system oppose it. In January 2024, the New York State Justice Task Force, convened by Chief Judge Wilson, unanimously endorsed Second Look legislation and issued fifteen specific recommendations on its scope, elements, and process.⁹

Judicial support for Second Look extends to the federal bench as well. In 2018, Congress passed the First Step Act with bipartisan support, permitting individuals serving federal sentences to petition courts for reductions based on “extraordinary and compelling circumstances,” a standard most circuit courts have interpreted to give judges wide discretion. Judge Frederic Block of the Eastern District of New York has emerged as one of the law’s most prominent proponents. Judge Block has repeatedly urged states, including New York, to follow the federal model, noting that states incarcerate



Put simply, our criminal justice system isn’t working. Maybe it hasn’t really ever worked.

—Judge Rowan Wilson

approximately ninety percent of the nation’s prison population. Without comparable Second Look mechanisms at the state level, he has warned, mass incarceration and sentencing inequities will persist unchecked.¹⁰

Yet the case for Second Look legislation does not rest primarily on popularity or compassion. It rests on a deeper recognition of the limits of sentencing itself, and on the need to rectify the decades of hyper-punishment that those limits enabled. Judges impose sentences at a single moment in time, often with limited information about a person’s future development, the long-term effects of incarceration, or the evolving social context in which a sentence will operate. In many cases, that decision is also shaped by statutory constraints—including mandatory minimum penalties—that limit judicial discretion and require lengthy terms. When sentences extend for decades, these initial judgments become long-term predictions about risk and character, predictions that empirical research has shown are inherently unstable over time.¹¹

This report examines the Second Look Act as a structural response to excessive sentencing rather than as an exceptional remedy for extraordinary cases. It situates the proposed legislation within a broader landscape shaped by mass incarceration, racial inequality, and the normalization of extreme punishment. Drawing on empirical research, legal analysis, and the perspectives of incarcerated scholars, the report argues that justice requires the capacity to revisit punishment over time, to assess whether continued confinement meaningfully serves public safety, accountability, or repair.

Second Look legislation does not guarantee release, nor does it deny the seriousness of harm. Instead, it restores proportionality and discretion to a system that has too often equated permanence with justice. By allowing courts to consider who a person has become, not only who they once were, Second Look affirms that accountability evolves over time and that punishment must remain responsive to evidence of human development — including, at minimum, the simple fact that decades have passed and the person who stands before the court is never the person who was sentenced. This report argues for that step, while acknowledging that sentencing reform, however necessary, is not the outer limit of what justice requires.

PART 2

THE LIMITS OF SENTENCING AND THE NEED FOR REASSESSMENT OVER TIME

Severe punishment has long been justified by deterrence—the notion that harsher penalties discourage future crime. Yet decades of criminological research suggest that the severity of punishment alone has a limited impact on crime reduction. A comprehensive review by the National Research Council concluded that existing empirical evidence is “not useful in determining whether capital punishment increases, decreases, or has no effect on homicide rates,” in part because studies struggle to isolate the effects of punishment severity from other factors influencing behavior. More broadly, the research literature consistently finds that the certainty of punishment—whether someone believes they will be caught—is far more influential than the length of the sentence imposed. This distinction is particularly relevant to policies that rely on extremely long prison terms as a primary crime-control strategy.¹²

Daniel S. Nagin, one of the leading scholars on deterrence, similarly observes that “the evidence in support of the deterrent effect of the certainty of punishment is far more consistent and convincing than for the severity of punishment.”¹³ Indeed, extending already lengthy prison terms, especially into decades or life sentences, adds little additional deterrent effect beyond the basic fact of punishment itself.¹⁴

Even where deterrence is assumed to operate, the predictive function of sentencing is limited by the reality that risk itself is dynamic. Risk assessment tools, which are designed to estimate future behavior, often perform only modestly in empirical validation and are calibrated for short- to medium-term predictions, not decades of future conduct.¹⁵ While such tools can assist courts in identifying relative levels of risk in the near term, they cannot reliably forecast human trajectories across multiple decades. This underscores the structural difficulty of making long-term predictions during sentencing that remain accurate and defensible over time — a problem captured in the formulation of Steve Zeidman, founder of the CUNY Second Look Project,

that “a sentence once imposed, even if to some seemingly just, necessary, and appropriate, does not remain so in perpetuity.”¹⁶

These limitations expose a central tension in long-term sentencing. At the moment of conviction, courts cannot know whether decades of confinement will produce anything of value — for the person sentenced, for those harmed, for the communities involved — that justifies what those years cost. Developmental science, criminological research, and the testimony of people who have actually spent that time in prison all point in the same direction: people change, often profoundly, in ways no sentencing proceeding can foresee. When that change carries no legal weight, when the system treats the judgment of a single day as permanently binding against all subsequent evidence, it has chosen permanence over truth, and called that choice justice.

No sentencing proceeding, however careful, can see 20, 30, 40 years ahead. The judge who sentenced a twenty-two-year-old had no way of knowing who that person would be at fifty or sixty. And yet the sentence pretends otherwise, locking in a prediction as though it were a fact. The absence of any mechanism for reassessment doesn’t just create an administrative gap. It expresses a choice: that what was decided in that courtroom matters more than what has happened since.

The predictive failure of long sentences is written into the record. Over and over again, court records from New York sentencing proceedings show judges making confident proclamations about defendants that the subsequent decades proved wrong. At the sentencing of a seventeen-year-old following a Murder 2 conviction, one judge declared: “It’s the recommendation of the court that this defendant not be released on parole ever. That he serve the full sentence of life in prison. That’s all. Take him away.” The defendant received 25-to-life and went on to become a hospice volunteer, mobility aide, and sign language interpreter for incarcerated people with hearing impairments, making parole on his first appearance before the board. In another case, a judge imposing a sentence of 75-to-life stated: “I harbor no illusions about the defendant. There is no reason to believe that any of the defendants will change despite the understandable hopes of their parents and families.” That person eventually earned the support of the prison’s superintendent and virtually everyone around them. In a third, a judge sentencing someone to a flat 40 years for



A sentence once imposed, even if to some seemingly just, necessary, and appropriate, does not remain so in perpetuity

—Steve Zeidman

two robberies told the defendant: “You have absolutely no concern for any other human being than yourself. It is certainly the position of this court that you should be kept under lock and key for the absolute maximum period of imprisonment of the time they can keep you there.” That person’s institutional record became the primary basis for one of the few clemency grants in recent New York history. Taken together, these transcripts reflect more than flawed prediction. They reflect judicial hubris, explicit animus, and in some cases language that echoes the racist mythology (e.g. superpredator, wolfpack, wilding) that shaped the punitive era in which these sentences were handed down. These were not aberrant moments but a system working as designed — and being proven wrong.¹⁷

Second Look legislation responds directly to predictive limits. It does not repudiate the authority of sentencing courts; rather, it recognizes that accountability must be assessed in light of time, evidence, and demonstrated change. By permitting structured reconsideration after substantial time has passed, sentencing review acknowledges that justice requires more than foresight at a single moment. It requires the capacity for reassessment.

Indeed, the predictive limits of sentencing are not merely technical failures of a system that might otherwise function justly. They are symptoms of a more fundamental contradiction: a legal architecture that responds to harm primarily through the removal of people from their communities, that equates accountability with suffering, and that was built, as the historical record makes clear, not on evidence of what produces safety but on political pressures that disproportionately targeted the poor, the Black, and the mentally ill. The question Second Look raises — should we reassess these sentences? — is important and urgent. But it sits within a larger question that this report does not shy away from: whether a system so constituted can deliver justice in any durable sense, or whether the possibility of justice will always require something more than what the current framework, however reformed, can provide. Second Look is a necessary step. It is not a destination.

EXCESSIVE SENTENCING AND THE CHANGING COMPOSITION OF NEW YORK'S PRISON POPULATION

New York's prison population has declined substantially over the past two decades, yet that decline tells only part of the story. Between 1999 and 2023, the number of people incarcerated in state prisons fell from nearly 73,000 to approximately 32,600.¹⁸ Reforms to the Rockefeller Drug Laws, changes in probation and parole practices, and declining crime rates all contributed to this reduction. But these overall declines obscure a more stubborn reality: while the system has contracted at the front end, individuals serving the longest sentences remain deeply entrenched within it. New York has reduced prison admissions without confronting the permanence of punishment already imposed.

The reason for this gap is structural. Changes to the Rockefeller Drug Laws illustrate the pattern. Beginning in the early 2000s, New York enacted significant reforms that reduced mandatory minimum sentences for drug offenses and expanded judicial discretion.¹⁹ These reforms contributed meaningfully to population decline among individuals convicted of drug crimes. However, they did little to affect those serving lengthy sentences for violent offenses, who constitute a majority of long-term incarceration. Front-end sentencing reforms, while important, left largely unaddressed the sentences already imposed on those serving the longest terms. Understanding who remains incarcerated in New York therefore requires shifting the analytic lens: rather than focusing solely on offense categories, it is necessary to examine sentence length, time served, and the historical moment in which those sentences were imposed.

Recent data from the Office of the State Comptroller confirm that aging has become a defining feature of New York's prison system rather than a temporary fluctuation. By 2025, the average age of the incarcerated population had risen to 40.2 years, a full four years older than in 2008 — a reflection of the cumulative effects of lengthy sentences and limited release mechanisms.²⁰

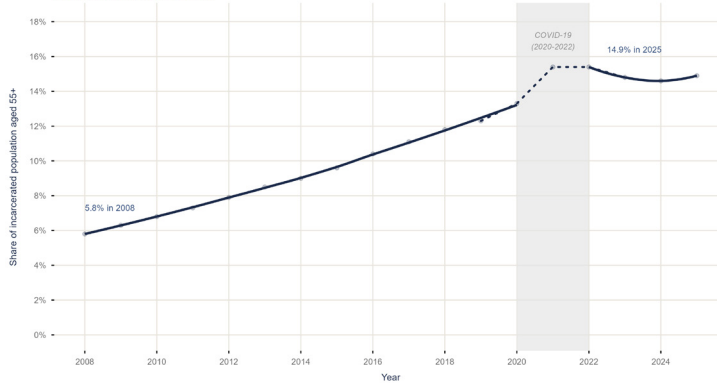
Average age of incarcerated individuals, New York State (2008-2025)



Source: NY Open Data, DOCCS Under Custody Report (2008-2025)

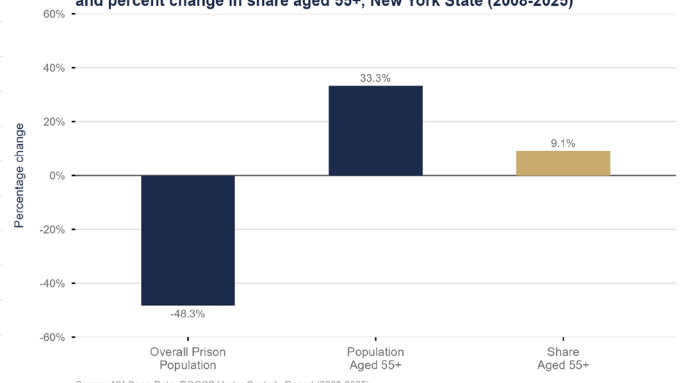
Individuals aged 55 and older now account for 14.9 percent of the total prison population, more than 2.5 times their share in 2008.²¹ These patterns make clear that, absent mechanisms for sentence reconsideration, demographic aging within the prison system has persisted despite front-end reforms.

People aged 55 or older as a share of the total incarcerated population, New York State (2008-2025)



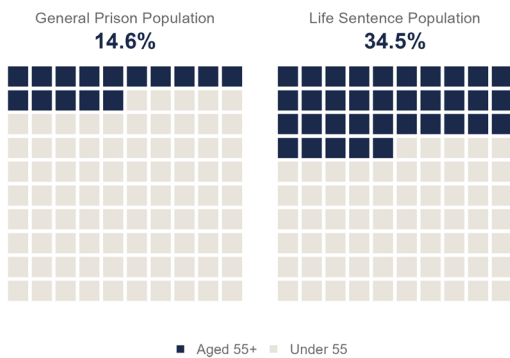
Source: NY Open Data, DOCCS Under Custody Report (2008-2025)

Percent change in overall and aged 55+ prison populations, and percent change in share aged 55+, New York State (2008-2025)



Source: NY Open Data, DOCCS Under Custody Report (2008-2025)

People aged 55 or older as a share of the general prison and life sentence populations, New York State (2024)

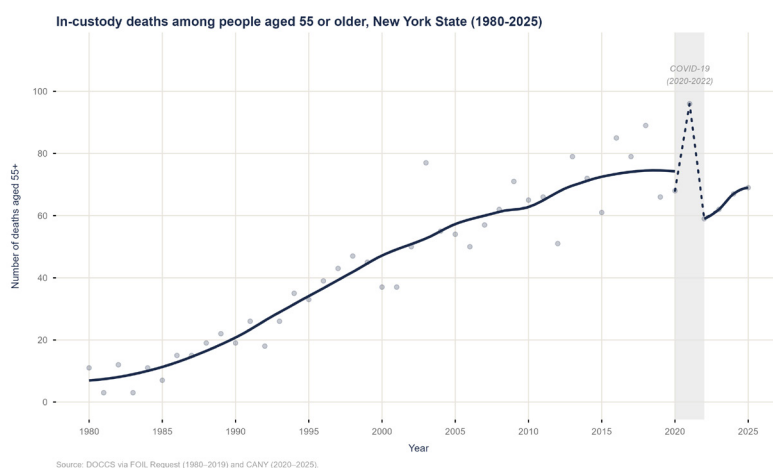
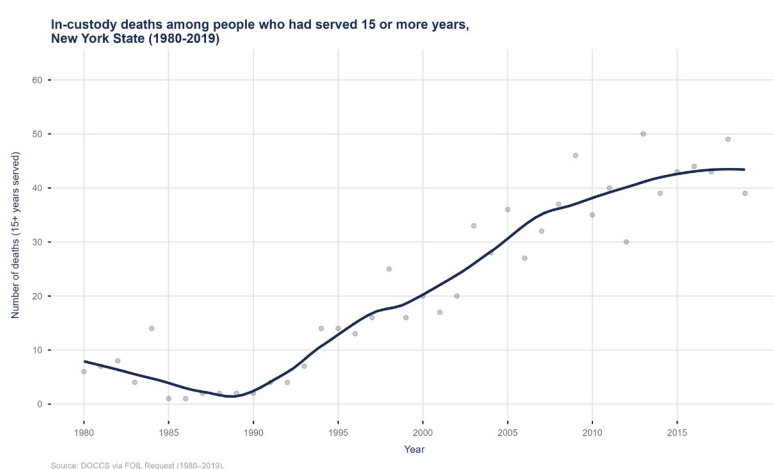


Sources: NY Open Data, DOCCS Under Custody Report (2024); The Sentencing Project, A Matter of Life (2024)

As of 2024, 31 percent of people in the custody of the New York State Department of Corrections and Community Supervision (DOCCS) were serving minimum terms of 15 years or more, including life-without-parole cases. More than one in five (22 percent) were serving minimum terms of 20 years or more.²² These figures underscore that a substantial share of the remaining prison population is serving decades-long terms imposed years or even decades earlier.

These demographic patterns have concrete human consequences. As the Office of the State Comptroller has observed, lengthy sentences and limited release mechanisms have resulted in many older individuals “aging in place” in prison.²³

The scale of this trend is documented in striking detail by a 2021 report from the Center for Justice at Columbia University. Despite the overall number of deaths in New York State prisons declining over recent decades, deaths of older incarcerated people have moved sharply in the opposite direction: the number of deaths of people aged 55 and older increased by 504 percent between the 1980s and the most recent decade, and 40 percent of all in-

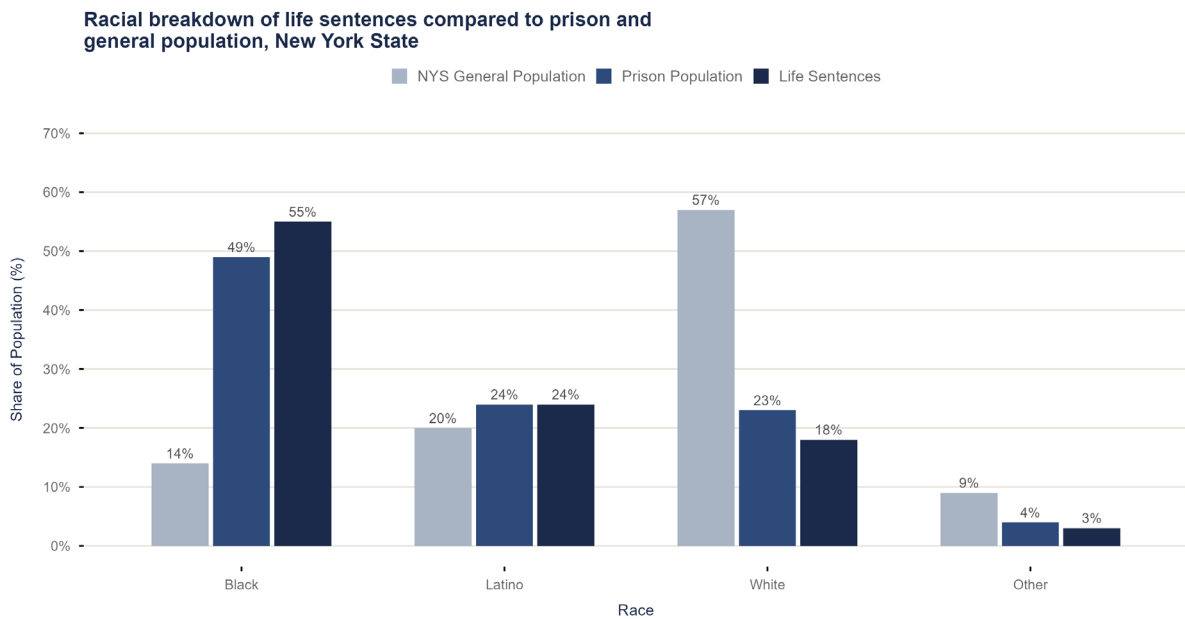


custody deaths of older people since 1976 occurred in just the last ten years. In the 1980s, older people represented roughly 9 percent of all deaths in custody; in the most recent decade, they accounted for 56 percent. The same pattern holds for those serving lengthy terms: roughly 1 in 3 people who now die behind bars had served at least 15 years at the time of their death, compared to 1 in 29 in the 1980s. Taken together, these figures illustrate that death in prison has become increasingly concentrated among older individuals serving long sentences.²⁴

In absolute terms, the average number of annual deaths among people aged 55 and older rose from 8 in the early 1980s to 76 by 2015–2019. Among those who had served 15 or more years — the population most directly addressed by Second Look legislation — annual deaths increased nearly sixfold over the same period, from fewer than 8 to more than 43.²⁵

Racial disparities remain a persistent feature of New York’s prison population. According to data from the Vera Institute of Justice, Black and Hispanic

people constitute the majority of those incarcerated in state prisons, even as the overall population has declined: of the total prison population in early 2024, approximately 49 percent of the total prison population was Black and 24 percent was Hispanic, while together these groups make up a far smaller share of the general state population.²⁶ The disparities are only greater when it comes to New Yorkers with life sentences, 55 percent of whom are Black.²⁷ These imbalances reflect long-standing structural inequities in the criminal legal system that shape who is subject to long, punitive sentences in the first place.



Sources:
 NYS General Population: U.S. Census Bureau, American Community Survey (2024)
 Prison Population: NY Open Data, DOCCS Under Custody Report (2024)
 Life Sentence Population: The Sentencing Project, A Matter of Life (2024)

New York’s experience mimics broader national trends. From 1990 to 2009, individuals released after violent convictions served prison terms that were 37 percent longer than those released in 1990.²⁸ Sentence length expanded even as crime rates fluctuated and, in many categories, declined — a structural shift in which prison populations aged not only because people are living longer, but because time served has steadily increased. As a result, the composition of incarceration has shifted even as its overall scale has contracted. A smaller prison system does not necessarily mean a less punitive one. Instead, incarceration has become ever more concentrated among individuals serving long terms, many of whom have already spent twenty or more years behind bars. Nationally, more than 200,000 people in U.S. prisons have already served at least twenty years, reflecting the growing share of the incarcerated population serving extremely long terms.²⁹

This dynamic is particularly visible among those serving life or “virtual life” terms (sentences so lengthy that release within a normal life expectancy becomes statistically unlikely). Despite reforms in other areas of criminal law, the share of people serving such sentences has remained substantial. Many were sentenced under legal regimes that emphasized incapacitation and retribution over reassessment or rehabilitation. These individuals remain incarcerated not because of recent conduct, but because of policy choices made decades ago.

Long sentences imposed during the era of punitive expansion continue to determine present-day incarceration patterns, even though the political and criminological assumptions that justified them have shifted substantially. If New York is committed to reducing its prison population further, it must confront this structural reality directly. The remaining prison population is disproportionately composed of individuals serving long or life sentences, many of whom have already served decades in custody. Without a mechanism for reconsidering those sentences, reform efforts will remain incomplete, and the most punitive dimensions of the system will persist. As Soffiyah Elijah, Executive Director of the Correctional Association of New York, has observed: “The continued imprisonment of a group of people who have significantly aged out of crime, who pose little public safety risk and could in fact contribute to our communities, expresses clearly the revenge principle. It tells us that for some people—especially people of color—growth and change do not entitle you to a second chance.”³⁰

“

Incarceration is the worst type of institutionalization there is for older people. [Correctional institutions] are “oriented around control rather than care”

—Dr. Rachael Bedard, former Director of Geriatrics and Complex Care Services for New York City’s jail system

PART 4

AGING, DESISTANCE, AND THE DIMINISHING RETURNS OF LONG PRISON TERMS

The most consistent finding in modern criminology is that criminal behavior declines sharply with age. Across offense categories and demographic groups, involvement in crime follows a well-documented age-crime curve: participation rises during adolescence, peaks in the late teens and early twenties, and declines steadily thereafter.³¹ By middle age, rates of serious offending fall dramatically.

This age gradient is reflected in recidivism data. Bureau of Justice Statistics analyses show that individuals released before age 25 are rearrested at rates more than twice as high as those released after age 40.³² Federal data similarly indicate that offenders released after age 60 have substantially lower rearrest rates than those released in early adulthood.³³ The empirical pattern is clear: risk declines significantly over time.

These findings do not suggest that incarceration is the optimal response to youthful offending. Developmental science demonstrates that adolescence and emerging adulthood are periods of heightened impulsivity, environmental vulnerability, and neurological change — conditions that also correspond with significant capacity for growth and transformation.³⁴ The same research that explains elevated offending rates among young people underscores the reality of desistance and maturation. The relevance of aging data, therefore, are not to justify incarceration during early adulthood, but to demonstrate the dubious public safety rationale for continued confinement decades after the period of statistically elevated risk has passed.

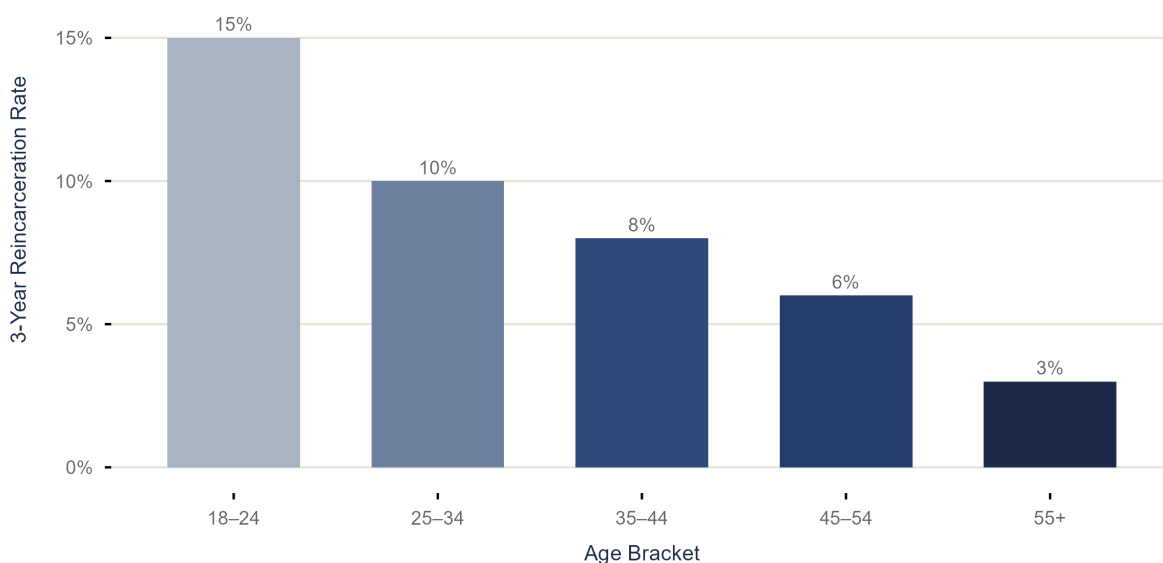
To the extent that incarceration operates through incapacitation, its preventive effect is concentrated in the years when risk is highest. Additional decades of confinement yield progressively smaller public safety returns. Criminological research consistently finds that most individuals desist from serious criminal activity as they age, even in the absence of continued incarceration.³⁵ When

long sentences extend far beyond the period of elevated risk, the marginal incapacitative benefit diminishes sharply.

These dynamics are particularly relevant in New York, where more than one in five individuals currently in DOCCS custody are serving minimum terms of twenty years or more.³⁶ Many entered prison in early adulthood and have now reached middle age or beyond. Continued incarceration in such cases must be evaluated against what is known about aging, desistance, and declining risk.

New York's own data reflect this pattern. Between 1985 and 2010, only 6.4 percent of individuals released at age 50 or older returned to prison for a new conviction within three years.³⁷ Even more recent DOCCS numbers confirm this trend: among releases between 2008 and 2021, the three-year recidivism rate for a new felony offense was 3.3 percent for those aged 60 to 69 and just 1.7 percent for those aged 70 and over.³⁸ The pattern is especially pronounced among those convicted of the most serious offenses: a Columbia University symposium on aging in prison found that people convicted of murder present the lowest rate of return to prison of any prison population, with only 1.3 percent returning for a new commitment.³⁹ Nationally, arrest rates are just over 2 percent for people aged 50 and older and approach zero for those aged 65 and older. These figures directly contradict the common assumption that individuals convicted of violent crimes represent an enduring public safety threat regardless of age or time served.⁴⁰

National Three-Year Reincarceration Rate by Age Bracket



Source: Prescott, Pyle & Starr (2020), *Understanding Violent-Crime Recidivism*, Notre Dame Law Review, p.1688

Long sentences also generate significant fiscal and institutional costs. Older incarcerated individuals require more intensive medical care, specialized housing accommodations, and increased staffing. Numerous studies estimate that incarcerating older adults costs substantially more per capita than incarcerating younger individuals, often two to three times as much.⁴¹

As prison populations age, correctional systems increasingly function as de facto geriatric care institutions, a role for which they were neither designed nor funded. In practical terms, incarcerating older adults is substantially more expensive than incarcerating younger individuals. Estimates presented by economists indicate that people aged 50 and older cost between two and five times as much to incarcerate as those under 50, contributing to billions in annual correctional expenditures nationwide.⁴² And indeed, per-person DOCCS health service costs rose from \$5,850 in State Fiscal Year 2013 to \$13,923 in State Fiscal Year 2025 — a 138 percent increase — even as the overall prison population declined.⁴³

An ACLU economist presenting at a Columbia University symposium on aging in prison estimated the national cost of incarcerating people aged 50 and older at roughly \$16 billion per year, a figure that exceeds what the federal Department of Education spends annually on all state elementary and secondary school improvements.⁴⁴ These costs are compounded by a biological reality for which sentencing law rarely accounts: researchers have consistently found that incarcerated people age at a rate approximately ten years in advance of their non-incarcerated peers, the product of chronic stress, inadequate preventive care, and the physical toll of the prison environment itself.⁴⁵ A person incarcerated at 30 who reaches 50 has, by this measure, experienced the physiological aging of someone who is 60. The threshold questions built into Second Look legislation — at what age, after how many years — could then reasonably be read against this background.

Dr. Rachael Bedard, a physician and former Director of Geriatrics and Complex Care Services for New York City’s jail system, has described what this accelerated decline looks like from the inside. “Incarceration is the worst type of institutionalization there is for older people,” she says in an interview. Correctional institutions, she observes, are “oriented around control rather than care” — meaning that older people with vision or hearing impairment, cognitive decline, or physical frailty are “seldom able to safely express their needs and have them met.” The cumulative toll is measurable: “when hard things happen to incarcerated elders, they do not bounce back easily. They tend to ‘step down’ — to lose some resilience, acquire new deficits, and find themselves more dependent.” Loneliness, she adds, is “pervasive in jails and prisons” and “another great force for decline amongst the aged.”⁴⁶

What emerges from this data is a picture of a system paying enormous fiscal, human, and institutional costs to confine people who, even by its own public safety logic, no longer need to be confined. The person who entered prison at twenty-two and is now forty-eight does not pose the same risk the original sentence was designed to address. Keeping them incarcerated anyway is not a safety decision but a statement about punishment as an end in itself — one that New York’s own Court of Appeals has rejected, holding in 2025 that “society derives no legitimate benefit from imprisoning a person for longer than is warranted.”⁴⁷

The urgency of reducing the prison population through Second Look extends beyond justice and fiscal responsibility. The 2025 correctional officers’ strike left the state’s 42 prisons with roughly 4,800 fewer COs, prompting a National Guard deployment costing over a billion dollars and forcing reductions in visits, legal calls, medical appointments, and programming across maximum security facilities.⁴⁸ The people most eligible for Second Look review — those who have already served decades and pose the lowest measurable risk — are precisely the population whose release would most directly ease that crisis.

The psychological toll of prolonged incarceration is increasingly measurable. Data released by the Correctional Association of New York show that the suicide rate in New York State prisons increased by more than 216 percent between 2013 and 2024, even as the overall prison population fell by nearly 40 percent over the same period — a trend that at minimum raises serious questions about the conditions facing those who remain, and the weight of sentences that offer no meaningful prospect for reassessment.⁴⁹

When incarceration extends long beyond the period of empirically elevated risk, it no longer rests on prevention but on a commitment to permanence — a rationale that empirical research does not sustain. Second Look legislation responds to this misalignment by introducing the possibility of structured reassessment after substantial time has passed. It does not presume release; it permits courts to evaluate whether continued confinement meaningfully advances safety, proportionality, or repair in light of age, conduct, and demonstrated change.

THE FAILURE OF EXISTING POST- CONVICTION REVIEW MECHANISMS

If long-term incarceration produces diminishing public safety returns and if sentencing judgments are inherently time-bound (as detailed in sections 2–4), a functional legal system should provide mechanisms for reassessment. In New York, however, existing post-conviction review pathways are fragmented, narrow, and structurally ill-suited to address the problem of excessive sentences imposed decades earlier.

Although several avenues technically exist for early release or sentence modification, none operates as a systematic pathway for reconsidering long-term punishment in light of aging, desistance, or demonstrated rehabilitation. Instead, current review structures are limited in scope, discretionary in application, and rarely used to recalibrate lengthy sentences.

a. Medical Parole and Compassionate Release

New York permits limited forms of medical parole for individuals who are terminally ill or severely incapacitated.⁵⁰ These provisions are humanitarian in design and intentionally narrow. Eligibility depends on strict medical criteria, including documented terminal illness or extreme functional impairment — and even among those who meet these criteria, grants remain rare. The evaluation process has been criticized by advocates as opaque, and applications are frequently denied or left unresolved even for people who are gravely ill.

As a result, medical parole does not function as a tool for reviewing excessive punishment. It addresses imminent mortality rather than proportionality. Individuals who have aged out of statistically elevated risk but who are not terminally ill remain categorically excluded. Relief under these provisions is rare, and the procedural burdens are substantial.⁵¹

New York's medical parole record illustrates both its potential and its failure. From the program's inception in 1992 through 2014, of the 413 people who

reached an interview, 371 — roughly 90 percent — were granted release. Yet of those 371, only 342 actually made it out: 27 died in the time between their grant and their release date. Of the 342 who were released, only six ever returned to prison, a recidivism rate of under two percent. When people who meet the medical threshold get a hearing, the system grants release at a remarkably high rate, and fears about public safety are almost never borne out. But the same record tells a parallel story: of 525 certified applications submitted over that period, 108 people died before the process even began — more than one in five applicants. (Four others “dropped out.”) An unknown additional number were turned away by DOCCS at the screening stage, deemed not to meet the program’s narrow eligibility criteria — a determination made through a process that advocates have criticized as both inhumane and lacking in transparency. According to data obtained via Freedom of Information Law request, by July 2022, cumulative DOCCS figures showed 1,247 deaths prior to release since the program’s inception, against 531 total compassionate releases. More people have died waiting than have ever gotten out. A 2022 DOCCS Legislative Report covering 2018 through 2022 confirms the pattern persists. Of 138 certified applications reaching the Parole Board during that period, 14 died before their interview and 93 were granted release. But of those 93, 16 died before they could walk out. The report does not record how many additional applicants were turned away by DOCCS before ever reaching the Board. It could be said, then, that the program does not fail because it releases the wrong people but because it reaches so few, and too often, too late.⁵²

Medical parole thus operates as an exception at the margins of the system rather than as a structural response to prolonged incarceration. While it may address the last weeks of a person’s life, it does nothing to solve for the last decades preceding that time.

b. Parole

For individuals serving indeterminate sentences, parole represents the primary formal mechanism for release. In theory, parole boards are tasked with evaluating rehabilitation, institutional conduct, and readiness for reintegration. In practice, however, parole in New York has long been shaped by discretionary decision-making, political pressures, and systemic inertia.

Recent state data underscore this limitation. Between 2019 and 2024, the share of releases among individuals aged 50 and older granted by discretionary parole declined from 57.2 percent to 48.9 percent, while conditional releases — which occur automatically upon reaching a statutory release date — grew to nearly half of all releases for this age group. Rather than reflecting individualized reassessment, this trend indicates that many

older individuals are serving lengthy terms until mandatory release rather than receiving sincere parole review. The overall release rate tells the same story: by 2024, only 23.1 percent of the 50-and-older population was released in a given year, down from 37.5 percent in 2019. This means that fewer than one in four older incarcerated people now leave prison in any given year, a figure that reflects not only longer sentences but the narrowing practical reach of discretionary release.⁵³

Each year in New York, roughly 10,000 to 12,000 people appear before the Board of Parole to make their cases for release, yet release rates have declined in recent years, dropping from around 42 percent in 2018 to approximately 33 percent in 2022.⁵⁴ This suggests that a larger share of parole-eligible people remain incarcerated, even when they appear before the board. Parole decisions frequently emphasize the seriousness of the original offense (an unchangeable factor) over evidence of growth or rehabilitation.⁵⁵

Moreover, parole is not available to individuals serving determinate sentences, nor does it apply to many long-serving individuals, including those with life-without-parole terms. For many incarcerated people, especially those sentenced under determinate frameworks, parole provides no pathway to reconsideration. Even among those technically eligible, the prospect of parole is often illusory: for individuals sentenced to decades at middle age or beyond, actuarial reality forecloses what the law nominally permits, producing virtual life sentences through attrition rather than explicit design. Procedurally, parole hearings occur within a presumption of continued incarceration, placing the burden on the incarcerated individual to overcome the weight of the original sentence rather than on the state to justify continued confinement. This structural tilt limits parole's capacity to function as a meaningful second look, and for many people serving the longest sentences, it provides no pathway at all. A person sentenced at age twenty to forty years has a significant chance of dying in prison before ever appearing before the parole board. Indeed, DOCCS mortality data consistently show the average age of death from natural causes in New York State prisons falls between 56 and 60.⁵⁶

c. Clemency

Executive clemency, including commutation of sentence, theoretically offers a broad corrective. Governors possess constitutional authority to reduce or modify sentences in extraordinary cases.⁵⁷

In practice, however, clemency operates as an extraordinary remedy rather than a systemic tool. Its availability fluctuates across administrations, and

New York’s grant rates reveal the depth of that failure. Between 2005 and 2021, the state received nearly 15,000 clemency applications but approved only 37 commutations — a grant rate of approximately 0.3 percent.⁵⁸ Even the COVID-19 pandemic, which created urgent public health imperatives for reducing prison populations, produced no meaningful response: in 2020, the state granted just 12 of 2,184 applications, a rate of 0.55 percent.⁵⁹ Rates have not improved under Governor Hochul, who granted just 19 commutations in her first four years in office.⁶⁰ As of early 2026, more than 1,800 clemency applications remain pending — over 1,330 of them seeking commutation of sentence from currently incarcerated individuals.⁶¹

As Ted Hausman, supervising attorney with the Legal Aid Society’s Criminal Appeals Bureau, has observed, clemency is “such a unique, broad power” that carries “the obligation to use it in a way that is more systemic in scale — because there are so many individuals in prison for whom a second look is appropriate.”⁶²

Clemency processes also lack transparent criteria and are inherently political in nature. While clemency can provide relief in individual cases, it cannot serve as a structural solution to excessive sentencing.

d. Resentencing Motions

Certain statutory resentencing provisions have been enacted in New York, including limited retroactive reforms related to drug offenses and specific sentencing statutes.⁶³ These mechanisms have contributed to population reductions in targeted categories.

However, resentencing motions are typically tied to narrow statutory changes and do not create a general right to seek sentence review based on time served, aging, or rehabilitation. Access depends on the scope of the legislative reform at issue. Individuals whose sentences were lawful under prior statutes but are now disproportionate in practice remain without recourse.

CPL 440.20, New York’s existing motion to set aside a sentence, provides no remedy here. It applies only where the original sentence was unlawful, not merely excessive. Emerging constitutional arguments grounded in adolescent brain development have opened some space to challenge sentences imposed on young people as illegal under the Eighth Amendment, but such claims remain uncertain and case specific.⁶⁴

Retroactivity — the capacity of a law to apply to sentences imposed under earlier policy regimes — is another structural gap. Most sentencing reforms

enacted over the past two decades have operated prospectively, leaving intact the lengthy terms imposed under prior regimes. In the absence of retroactive review, past policy decisions continue to govern present incarceration outcomes.

e. Population-Specific Resentencing Laws: The Domestic Violence Survivors Justice Act

In 2019, New York enacted the Domestic Violence Survivors Justice Act (DVSJA), a landmark law designed to address the criminalization of survivors of domestic abuse whose offenses were connected to their victimization. Passed after more than a decade of advocacy led primarily by the Coalition for Women Prisoners, the law allows courts to impose reduced sentences (or alternative community-based sentences) when a defendant demonstrates that they experienced “substantial physical, sexual, or psychological abuse,” that the abuse was a “significant contributing factor” to the offense, and that the otherwise applicable sentence would be “unduly harsh.” The statute permits judges to depart from otherwise mandatory sentencing ranges at the time of sentencing and also provides a retroactive resentencing process for certain individuals already incarcerated when the law was enacted. If these criteria are met, courts may impose substantially shorter prison terms or alternative sentences such as probation or conditional discharge.⁶⁵

Although limited in scope, the DVSJA has provided meaningful relief for some survivors serving lengthy sentences. As of February 2026, 79 individuals had been resentenced under the statute after filing DVSJA applications, eliminating more than 234 years of incarceration from what would otherwise have been their earliest possible release dates and preventing at least twenty potential life sentences. Of the 232 applications filed, 79 were granted and 104 were denied. Approximately 86 percent of those resentenced were women, and roughly 75 percent were people of color.⁶⁶

Still, the DVSJA illustrates the limitations of narrowly targeted resentencing reforms. Strict eligibility rules, categorical exclusions, and evidentiary requirements—including a statutory requirement that applicants present two forms of corroborating evidence of abuse—have significantly constrained the law’s reach. Survivors who experienced abuse that cannot be directly tied to the offense, those unable to obtain official documentation of abuse years or decades later, and individuals convicted of certain excluded offenses remain ineligible for relief. Judicial resistance and narrow interpretations of the statute have also limited its application. While the DVSJA represents an important acknowledgment that sentencing should

account for the lived realities of domestic violence, it remains a population-specific reform rather than a general mechanism for reconsidering excessive punishment after substantial time served.⁶⁷

What these mechanisms share is an orientation toward the exceptional. Medical parole applies at the threshold of death; clemency depends on gubernatorial will; parole decisions emphasize the original offense over demonstrated change; targeted resentencing statutes address specific categories of excess without disturbing the rest. None of them creates a systematic opportunity for courts to evaluate whether a decades-long sentence continues to be just, necessary, or appropriate. In the absence of such a mechanism, permanence is the default—not a deliberate judgment so much as inertia.

That default is sometimes defended on grounds of finality — the principle that a conviction and sentence, once imposed, are settled. Finality serves real interests: it provides certainty, closes proceedings, and affirms that courts have spoken. But finality was never designed to place the duration of punishment beyond question. Second Look does not reopen a conviction; it asks whether the punishment attached to that conviction still makes sense, whether it serves any purpose that the intervening decades have not already exhausted. A legal system that treats that question as impermissible has confused the authority of its own judgments with their wisdom.

Second Look legislation would not replace these mechanisms; it would supply what they lack: a structured, judicially administered opportunity to reassess lengthy sentences based on time served, evidence of change, and contemporary understandings of proportionality, safety, and repair.

| Mechanism | Eligibility | Authority | Standard Applied | Limitations | Release Rate |
|-----------------------|--|----------------------------------|---|---|------------------------------|
| Parole | Minimum time served | Parole Board Commissioners | Safety to the community; institutional conduct; seriousness of offense; rehabilitation and risk assessment; parole plan | <i>Focus on seriousness of crime; not applicable for LWOP and extreme sentences</i> | 39% (2018-2024) |
| Resentencing Motion | Illegal sentence | Resentencing Judge | Unauthorized, invalid, or illegally imposed sentence | <i>Must have an illegal sentence</i> | N/A |
| Clemency | Served at least one-half of minimum term; not eligible for parole within one year of application | Governor | Rehabilitation; responsible use of programs; interest of justice; public safety | <i>Highly discretionary and rarely granted</i> | 1.4% (19 of 1,330) |
| Compassionate Release | Terminal illness or significant, permanent physical/cognitive incapacitation | Parole Board; DOCCS Commissioner | Terminal illness or incapacitation; safety assessment; eligible offenses; detailed medical report; documented discharge plan for care | <i>Excludes 1st degree murder; slow, bureaucratic process</i> | 15% (2013-2017) |
| DVSJA | Domestic abuse occurred at time of offense; unduly harsh sentence | Resentencing Judge | Victimization; abuse contributed to crime; unduly harsh sentence; eligible offenses; documentation of abuse | <i>High judicial discretion; highly interpretive; strict evidentiary requirements; limited scope for certain crimes</i> | 34% (79 of 232 applications) |
| NY Second Look Act | Served 10 years or half of a ten-year sentence | Resentencing Judge | Rehabilitation; public safety; history of abuse or trauma; potential benefits of family reunification; victim input | <i>Uneven application based on DA and Judge; not prospective; insufficient resources for applicants</i> | N/A |

HOW NEW YORK BUILT A SENTENCING SYSTEM WITHOUT SECOND CHANCES

New York's current sentencing architecture did not emerge organically, and its inadequacies are not incidental. It was constructed over decades through legislative choices shaped by a broader national turn toward punitive severity in the late twentieth century. Understanding the absence of meaningful sentence review mechanisms requires situating present incarceration patterns within that historical trajectory.

Beginning in the 1970s and accelerating through the 1980s and 1990s, New York, like much of the country, adopted sentencing policies designed to increase certainty and severity of punishment. The Rockefeller Drug Laws, enacted in 1973, introduced some of the harshest mandatory minimum sentences in the nation for drug offenses.⁶⁸

The punitive turn of the late twentieth century unfolded within an already unequal criminal legal landscape. Enforcement of drug laws and violent crime statutes during the 1980s and 1990s disproportionately affected Black and Latino New Yorkers, particularly in urban neighborhoods subject to hyper-policing. By the mid-1990s, Black New Yorkers were incarcerated at dramatically higher rates than white residents, and those disparities have persisted even as overall prison populations declined.⁶⁹ Mandatory minimum structures and sentencing enhancements amplified these patterns by constraining judicial discretion and limiting individualized review, thereby converting enforcement disparities into long-term custodial outcomes. These patterns were also closely tied to concentrated poverty and neighborhood disinvestment, where intensive policing and limited access to social resources combined to shape who was most likely to face severe sentencing outcomes.

At the same time, determinate sentencing expanded for violent offenses, narrowing pathways for discretionary release. As fixed terms and mandatory minimums proliferated, judicial discretion contracted at both the front and

back ends of the system, reducing opportunities for meaningful post-sentencing reconsideration.

This period also saw a broader political emphasis on incapacitation and retribution as dominant penal philosophies. Legislative debates frequently framed long sentences as necessary to protect public safety by permanently removing individuals deemed dangerous.⁷⁰ Sentencing enhancements, mandatory minimums, and truth-in-sentencing provisions collectively lengthened the time individuals served before eligibility for release.

Crucially, these reforms operated prospectively. They increased penalties and extended minimum terms, but they did not create corresponding mechanisms for later reassessment. As sentencing severity expanded, structured review mechanisms did not develop in parallel. The legal system grew more certain about punishment at the front end while remaining rigid at the back end.

The result is a temporal imbalance. Individuals sentenced during the height of punitive expansion remain incarcerated under assumptions formed decades ago—assumptions shaped by elevated crime rates, intense political pressure, and limited empirical understanding of aging and desistance. Yet today's sentencing framework offers few opportunities to revisit those premises in light of contemporary evidence.

Over time, reforms have addressed selected categories of excess. The partial rollback of the Rockefeller Drug Laws, adjustments to parole practices, and targeted resentencing statutes have mitigated some of the most severe features of prior regimes.⁷¹ But these changes have been incremental and categorical rather than systemic. They have not established a general principle that long sentences should be subject to reconsideration after substantial time has passed.

In effect, New York built a sentencing system oriented toward permanence. Lengthy terms were imposed without institutionalized mechanisms for recalibration. As a consequence, the state now faces a prison population disproportionately composed of individuals serving decades-long sentences imposed under earlier policy regimes, a population for whom no structured second look exists.

Recognizing this historical construction is essential. The absence of review is not neutral; it is itself a policy choice embedded in sentencing law, one that privileges permanence over reassessment. Second Look legislation does not disrupt an otherwise stable equilibrium. It responds to a structural omission: the failure to pair expanded sentencing severity with a durable mechanism for reconsideration.

SECOND LOOK LAWS IN PRACTICE: MODELS, SCOPE, AND LESSONS FROM OTHER JURISDICTIONS

Over the past decade, jurisdictions across the United States have increasingly adopted mechanisms permitting courts to revisit lengthy sentences after substantial time has been served. While the scope and structure of these laws vary, they reflect a growing recognition that extreme punishment imposed decades earlier may warrant reconsideration in light of age, conduct, and evolving standards of decency and proportionality.

Second Look frameworks generally fall into three broad categories: youth- or age-based review models, broadly available time-served review statutes, and narrower discretionary models that rely heavily on prosecutorial gatekeeping. Examining these approaches clarifies both the promise and the limitations of sentencing reconsideration.

a. Youth- and Age-Based Review Models

Several states have enacted laws allowing individuals who committed offenses at a young age to seek resentencing after serving a defined period of time. These statutes are often rooted in developmental science and Supreme Court jurisprudence recognizing the diminished culpability and heightened capacity for change among adolescents and emerging adults.⁷²

For example, California's youth offender parole statutes provide parole eligibility hearings for individuals who committed offenses before age 25, reflecting legislative recognition that developmental maturity continues into early adulthood.⁷³ Similarly, Washington, D.C.'s Second Look Act Amendment permits individuals who committed offenses before age 25 to petition for resentencing after serving 15 years, following amendments that expanded the law's original scope.⁷⁴

Such models acknowledge that youth is a mitigating factor that endures beyond the moment of conviction. They also reflect growing recognition that developmental science bears on long-term punishment. However, youth-

limited statutes leave unaddressed the broader population of individuals who were sentenced as adults and who have likewise aged, matured, and demonstrated rehabilitation over decades of incarceration.

While youth-based statutes represent an important step toward reconsidering extreme punishment, several jurisdictions have also begun experimenting with broader review mechanisms that are not tied to age at the time of offense.

b. Broad Eligibility Second Look Frameworks

The movement toward sentencing review has grown substantially over the past decade. As of 2025, fifteen state legislatures, the District of Columbia, and the federal government have enacted judicial review mechanisms for incarcerated people with excessive sentences — most going beyond the original population of juveniles sentenced to life without parole. Courts in at least sixteen additional states have created resentencing opportunities through constitutional litigation, holding that extremely long sentences imposed on youth violate state or federal prohibitions on cruel and unusual punishment. The reform began as a response to the Supreme Court’s decisions in *Graham v. Florida* and *Miller v. Alabama*, but has expanded well beyond those holdings — reaching emerging adults, domestic violence survivors, and in some jurisdictions, any person who has served substantial time regardless of age or offense.⁷⁵

These statutes permit reconsideration after a substantial period of incarceration (often 15 or 20 years) without restricting eligibility to those who committed offenses as juveniles or emerging adults. While the precise structure of these laws varies across states, they reflect an expanding recognition that extremely long sentences warrant the possibility of judicial reassessment after substantial time has passed. In practice, however, fully age-neutral and broadly accessible, petitioner-initiated judicial review statutes remain relatively uncommon.⁷⁶

Connecticut and Delaware are the principal examples of legislatively enacted judicial review mechanisms that do not impose categorical age restrictions.⁷⁷ Connecticut permits sentence modification after a defined period of time served but excludes mandatory minimum sentences from eligibility, thereby narrowing its practical reach.⁷⁸ Delaware similarly authorizes judicial review without a youth cutoff, subject to procedural and statutory constraints.⁷⁹

California provides additional mechanisms for resentencing or recall of sentence that are not limited by age at offense. However, many of these processes are initiated by prosecutors or corrections officials rather than

by direct petition of the incarcerated individual.⁸⁰ Because access to review may depend on executive or prosecutorial discretion, California’s framework differs structurally from defendant-initiated second look statutes and does not establish a universal right to judicial reconsideration based solely on time served.

Other jurisdictions have adopted resentencing provisions tied to specific populations—such as survivors of domestic violence—or limited statutory reforms affecting defined categories of offenses.⁸¹ While these measures expand opportunities for relief, they do not create a general, retroactive, age-neutral pathway for judicial review of lengthy sentences.

Comparative experience therefore demonstrates that although sentence review has expanded beyond youth-only models, relatively few states provide a comprehensive, petitioner-initiated judicial mechanism permitting reconsideration of lengthy sentences after substantial time has passed. The scope of eligibility and the identity of the decision-maker remain the central variables shaping the practical breadth of these laws.⁸²

c. The Limits of Narrow and Discretionary Gatekeeping Models

In contrast, some jurisdictions rely on highly constrained review mechanisms, such as prosecutor-initiated resentencing or categorical exclusions based on offense type. Under these models, the ability to seek reconsideration depends not on time served or demonstrated change, but on the discretion of a prosecutorial office.

While prosecutor-initiated resentencing can yield relief in individual cases, its availability often varies significantly by county and administration. Access may depend on local policy preferences rather than uniform legal standards.⁸³ This variability limits predictability and can produce geographic disparities in relief.

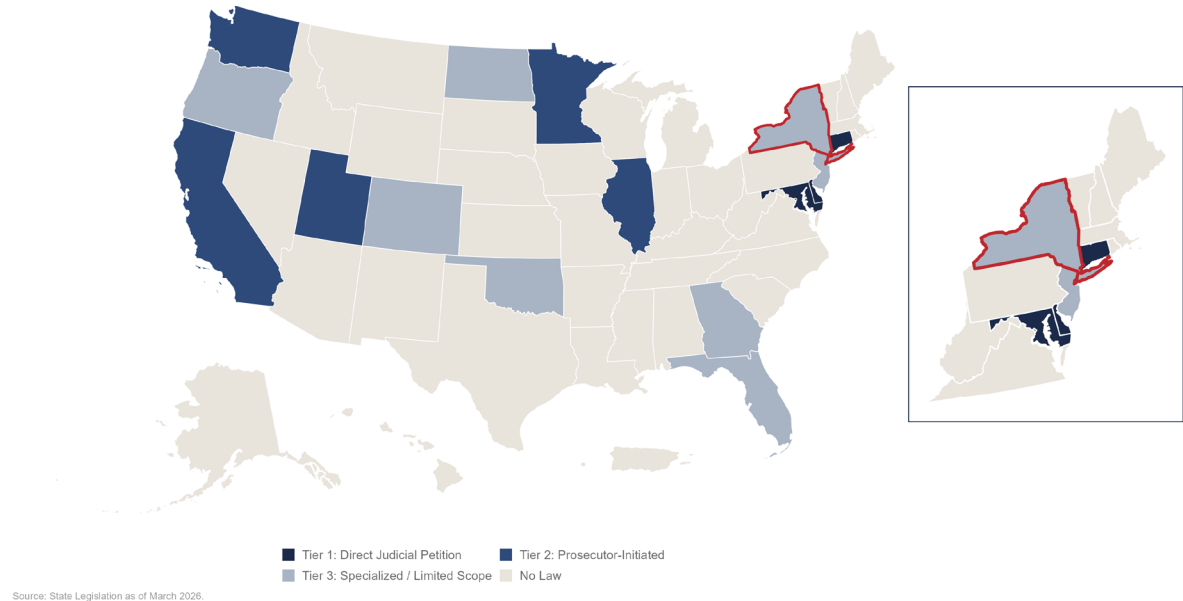
Categorical exclusions present similar challenges. Statutes that bar review for entire classes of offenses effectively foreclose consideration of aging, desistance, and individual rehabilitation for broad segments of the incarcerated population. Such exclusions risk undermining the central premise of Second Look legislation: that time served and demonstrated change warrant individualized judicial reassessment.

Design choices therefore matter. A statute that permits judicial review after 15 years will operate very differently from one that conditions reconsideration on prosecutorial approval or excludes broad categories of offenses. The scope of eligibility, the identity of the decision-maker, the procedural safeguards

provided, and the degree of discretion afforded all shape whether a Second Look framework operates as a genuine corrective or a symbolic gesture. Comparative experience suggests that review mechanisms function most effectively when they are broadly accessible, judicially administered, and guided by structured criteria rather than ad hoc discretion. These emerging models provide useful guidance for jurisdictions considering sentencing review.

For New York, the relevant question is not whether Second Look legislation is unprecedented, but which design choices have actually worked and how the state can build on these emerging models. The evidence from other jurisdictions is clear: broadly accessible, petitioner-initiated, judicially administered review reaches more people more equitably than narrower alternatives. The state has the benefit of a decade of comparative experience to draw from. There is little excuse for building in the same limitations that have made Second Look laws symbolic or ineffective elsewhere.

Second Look Laws Across the United States



| JURISDICTION | PETITION POWER/ SCOPE | AGE AT OFFENSE | TIME SERVED ELIGIBILITY | REDUCES MANDATORY MINIMUM? | EXCLUSIONS | FACTORS CONSIDERED |
|---|--|----------------|---|---|--|---|
| TIER 1: DIRECT JUDICIAL PETITION | | | | | | |
| Washington, D.C. | Direct petition | Under 25 | 15 years | Yes | None | 10 factors including age, rehabilitation, victim input, and public safety risk |
| Maryland | Direct petition | 18-24 | 20 years | Yes | Sex offenses; murder of a first responder; life without parole | 10 factors including conduct, maturation, family background, public safety risk |
| Connecticut | Direct petition | Any | Lesser of 60% of sentence or 12 years | No | Sex offenses; murder with special circumstances | Progress in custody, victim statements, assessed risk level |
| Delaware | Direct petition | Any | 25 years | No | None | Programming, employment history, education, addiction history |
| Federal (not shown on map) | Direct petition (all federally sentenced individuals) | Any | None required | Yes | None | Extraordinary and compelling circumstances; standard sentencing factors under 18 U.S.C. §3553(a) |
| TIER 2: DISTRICT ATTORNEY INITIATED RESENTENCING | | | | | | |
| California | District Attorney, Dept. of Corrections, or Judge initiated | Any | None required | Yes | None | Evidence of rehabilitation, risk to public safety, trauma and medical history |
| Illinois | District Attorney initiated | Any | None required | No | None | Interests of justice, rehabilitation, age at time of offense |
| Minnesota | District Attorney initiated | Any | None required | No | None | Age at offense, health, institutional behavior, assessed risk |
| Utah | District Attorney initiated | Any | None required | No | None | Demonstrated rehabilitation and absence of public safety risk |
| Washington | District Attorney initiated (limited to felony convictions) | Any | None required | No | None | Interests of justice, rehabilitation, age at time of offense |
| TIER 3: SPECIALIZED / LIMITED SCOPE | | | | | | |
| Colorado | Direct petition (habitual offenders) | Any | 10 years (applies only to sentences of 24+ years) | Partial (cannot go below sentencing midpoint) | Sex offenses; crimes against children | Programming participation, conduct in custody, age at offense |
| Florida | Automatic review (youth sentences) | Under 18 | 15, 20, or 25 years depending on offense type | Yes | Specified heinous prior offenses; capital murder | 9 factors including maturity, family environment, peer influence, and rehabilitation |
| Georgia | Direct petition (survivors of domestic violence/ abuse) | Any | None required | Yes | None | Evidence of trauma or abuse and its contributing role in the offense |
| New Jersey | Direct petition (youth sentences) | Under 18 | 20 years | Yes | None | Youth-specific mitigation factors including maturity, family environment, and capacity for change |
| New York | Direct petition (survivors of intimate partner/ family violence) | Any | None required | Yes | Sex offenses; specified homicides; sentences under 8 years | Intimate partner/family violence as contributing factor; public safety risk |
| North Dakota | Direct petition (youth sentences) | Under 18 | 20 years | Not specified in statute | None | 10 factors including maturity, institutional behavior, and risk of re-offense |
| Oklahoma | Direct petition (survivors of domestic violence) | Any | None required | Yes | Sex offender registration requirements; death sentences | History of domestic violence or abuse and its contributing role in the offense |
| Oregon | Direct petition (youth sentences) | Under 18 | 15 years | Yes | Aggravated murder | 12 factors including maturation, institutional behavior, and rehabilitation |

THE PROPOSED SECOND LOOK ACT IN NEW YORK

PART 8

A. What the Bill Provides

The proposed Second Look Act in New York, introduced as Senate Bill S158 and Assembly Bill A1283 in the 2025–2026 session, would amend the Criminal Procedure Law to authorize resentencing petitions after a substantial period of incarceration has been served.⁸⁴ Under the current draft, individuals who have served at least 10 years or half of their sentences, if the sentence is over a decade (whichever comes first), may petition the sentencing court for reconsideration of their sentences, provided specified procedural prerequisites are met.

This legislation would establish a structured judicial mechanism permitting individuals serving lengthy prison sentences to seek resentencing after a defined period of time. Unlike parole or executive clemency, the Act situates reconsideration within the judiciary and creates a defined legal pathway for review that is both procedurally regulated and judicially supervised.

Eligibility Threshold

S158/A1283 sets a time-served threshold as the gateway to review. After 10 years or half of a sentence has been completed, the petitioner may file a motion in the court of original jurisdiction. The time-served requirement determines when an application may be made; it does not guarantee relief. Rather, it reflects a legislative judgment that, after substantial time has passed, the predictive assumptions underlying the original sentence warrant structured reassessment.

Some have raised concerns that broader avenues for relief will overwhelm already strained court dockets. The structure of S158/A1283 addresses this directly. The time-served threshold limits the eligible population to people who have already been incarcerated for a substantial number of years — not a sudden influx, but a defined and finite group. Experience in jurisdictions with comparable laws bears this out: in Washington D.C., a few hundred

petitions were filed and resolved over several years under the Incarceration Reduction Amendment Act; Maryland saw 36 hearings in the first year of its Juvenile Restoration Act. The numbers are manageable. The petition process itself — with its structured criteria and judicial discretion — functions as an additional filter. The bill does not create a new burden on the courts. It names one the system has been quietly absorbing for decades: thousands of people condemned to die in prison under sentences the evidence no longer justifies, with no legal pathway to challenge whether that remains true.⁸⁵

Judicial Authority and Evidentiary Standards

Under the proposed framework, the sentencing court retains discretion to grant or deny relief following a hearing. Courts may consider institutional conduct, participation in programming, evidence of rehabilitation, disciplinary history, age, health status, victim impact statements, and standardized assessments of risk and needs. These factors reflect traditional sentencing goals, including deterrence, incapacitation, retribution, and rehabilitation.

Importantly, the Act does not mandate release. It creates an opportunity for reconsideration, not an entitlement to a lesser sentence. Judicial authority remains central, and the burden rests on the petitioner to demonstrate that continued incarceration is no longer necessary to advance legitimate sentencing goals in light of demonstrated change.

Procedural Safeguards and Survivor Participation

The proposed legislation includes notice provisions and opportunities for survivor input. Those directly harmed by the offense are afforded the opportunity to participate in the process, ensuring that resentencing occurs within a structured procedure that accounts for multiple perspectives. Incorporating survivor participation does not predetermine outcomes; it situates reconsideration within an adversarial framework and reinforces procedural legitimacy.

These provisions represent an important starting point, but a fully realized framework would go further. As currently drafted, S158/A1283 does not establish dedicated resources for victim navigation, trauma services, or financial assistance that would allow those harmed to engage meaningfully with the resentencing process without bearing an undue administrative burden. Model Second Look legislation developed by the National Association of Criminal Defense Lawyers recommends that a defined share of the cost savings generated by resentencing be directed toward victim-centered programs, including community-based services to support survivors through the process and beyond.⁸⁶ A comprehensive approach to survivor

participation would include active outreach to those directly harmed upon the filing of a petition, connection to the full range of available services without requiring survivors to navigate bureaucratic processes on their own, and, for those who seek it, structured mechanisms for direct engagement with the person who caused harm. These are design features worth building into any final legislation, and their absence from the current draft is a gap worth addressing as the bill advances.

Scope and Categorical Limitations

As drafted, the Act does not condition eligibility on offense type alone. Individuals convicted of serious offenses may petition for review, subject to judicial discretion and procedural safeguards. The absence of categorical exclusions means that eligibility is determined by time served and procedural criteria rather than by offense category at the outset. If enacted, the Second Look Act would apply retroactively to individuals currently incarcerated, permitting petitions to proceed on a case-by-case basis rather than through wholesale sentence reductions.

“Many bills carve out certain categories of crime, thereby leaving people serving the longest sentences with no recourse to review,” says Steve Zeidman. “By permitting a request for resentencing regardless of the crime of conviction or the original sentence, the Second Look Act recognizes that it is people convicted of serious crime who are serving the longest time and therefore most in need of some sentencing review so that they are not consigned to die behind bars.”⁸⁷

The absence of categorical exclusions is not incidental to the legislation’s design — it reflects a hard reality that Second Look advocates have had to confront directly. The population most stranded by New York’s failure to provide any mechanism for sentence review is not primarily people convicted of drug offenses or property crimes. It is people serving death-by-incarceration sentences, most of them convicted of homicide, many of them inside for three or four decades. These are also, as the data consistently show, disproportionately Black New Yorkers: racial disparities in who enters state prison are severe, but they deepen as sentences lengthen, meaning that the people with the most at stake in Second Look legislation are those already most exposed to the system’s worst inequities. Excluding this population for the sake of political palatability would hollow out the reform before it begins. The argument for including people convicted of serious offenses does not rest on minimizing what they did. It rests on the recognition that sentences imposed under racially distorted norms, by judges making predictions about who a person would become that no one can reliably make, do not earn permanent legitimacy simply by virtue of the offense that occasioned them.

B. Design Considerations and Policy Implications

How a Second Look statute is designed matters as much as whether one exists. The first question is timing: when does eligibility attach? Across jurisdictions, thresholds have ranged from 15 to 20 years, each reflecting a different bet about where the line should fall between meaningful access and political viability. S158/A1283 sets the threshold at 10 years served, or half of a sentence of at least ten years — a judgment that a decade is substantial enough to justify reassessment, and that waiting longer serves no one except the system’s preference for permanence.

It bears mentioning that the New York State Justice Task Force — the body convened by Chief Judge Wilson that unanimously endorsed Second Look legislation — recommended a five-year eligibility threshold. S158/A1283’s 10-year floor is a more conservative choice, perhaps reflecting legislative pragmatism rather than any principled judgment about when reassessment becomes warranted.⁸⁸

A second consideration is the identity of the decision-maker. By vesting authority in the sentencing court rather than in a parole board or prosecutorial office, the Act promotes statewide uniformity and procedural transparency. Judicially administered review requires articulated reasons for decisions and situates reconsideration within an adversarial framework, reinforcing institutional legitimacy and reducing the geographic variability that characterizes discretionary gatekeeping models. The choice of judicial rather than prosecutorial administration is not merely procedural — it reflects lessons from jurisdictions where prosecutorial gatekeeping has produced demonstrably uneven results. In Washington State, 27 of 39 counties filed zero petitions under a prosecutor-initiated resentencing law, with 69 percent of all petitions originating from just three counties.⁸⁹ In California, a resentencing unit built under one district attorney was dismantled when a new administration took office, illustrating the political fragility of models that depend on prosecutorial will.⁹⁰ Geographic disparity and administrative instability are not incidental features of prosecutorial gatekeeping — they are structural consequences of placing discretion in offices that vary widely by county, administration, and political climate. Judicial administration eliminates this variability by establishing a uniform statewide right to petition and requiring courts to articulate reasons for their decisions, a level of procedural accountability that prosecutorial models do not provide.

The breadth of eligibility is perhaps the most consequential design variable. Broad frameworks permit petitions regardless of offense type, subject to judicial discretion; narrower statutes impose categorical exclusions that remove entire classes of people from review. Because aging, desistance,

and rehabilitation are individualized phenomena, categorical exclusions undermine the central logic of Second Look review. As discussed in Section 7, comparative experience consistently shows that narrow eligibility criteria and prosecutorial gatekeeping limit a statute’s practical reach, leaving untouched many of those most affected by excessive sentencing.

Finally, the Act would operate incrementally, with petitions proceeding case by case rather than through wholesale sentence reductions. Experience in other jurisdictions suggests that courts are capable of administering such review without systemic disruption.⁹¹

The primary significance of S158/A1283 lies not in immediate population reduction but in establishing a durable institutional mechanism for reassessing lengthy punishment over time — one grounded in judicial deliberation, governed by structured criteria, and responsive to evidence of change. The ultimate standard is whether “the interests of justice” warrant a sentence modification, language that already appears in New York law in other contexts, including motions to dismiss and direct appeals challenging excessive sentences, and that carries with it a body of judicial experience in its application.

DESIGNING SENTENCING REVIEW TO SERVE SAFETY, ACCOUNTABILITY, AND REPAIR

The most common objections to Second Look legislation typically concern public safety, accountability, and respect for survivors. These are not peripheral or frivolous issues. In fact, they are central to the legitimacy of any sentencing reform and deserve direct engagement.

What the evidence shows is that a well-designed review mechanism does not trade safety for leniency, or accountability for mercy. It takes those concerns seriously enough to build them into the process. Indeed, when properly structured, Second Look legislation does not displace core sentencing goals so much as recalibrate them in light of time served, aging, and demonstrated change.

Public Safety

The most frequently raised concern is whether allowing resentencing petitions would jeopardize public safety. As discussed in Section 4, the empirical relationship between age and recidivism demonstrates that risk declines sharply over time. Individuals who have served decades in prison are statistically far less likely to reoffend than those released at younger ages.

Large multi-state analyses confirm this pattern. A study using national corrections records found that reincarceration for a new offense within three years declines steadily with age, falling from 15 percent among those released at ages 18–24 to 3 percent among those released at age 55 or older.⁹² Among individuals previously imprisoned for violent offenses, the rate for those 55 and older was approximately 1 percent.⁹³ Federal data show the same age gradient over longer follow-up periods, with rearrest rates declining dramatically among those released at older ages.⁹⁴

While no release is risk-free, the empirical record consistently indicates that individuals released at older ages—particularly after lengthy terms of incarceration—pose comparatively low public safety risk at the point of release.

Second Look legislation does not require courts to ignore risk. On the contrary, it directs courts to evaluate risk explicitly, using institutional conduct, programming participation, disciplinary history, and validated assessment tools. Judicial discretion remains central, and courts retain authority to deny relief where continued incarceration is necessary to protect the public. Relief is granted only after an individualized determination; many petitions may be denied.

The design question, therefore, is not whether safety matters, but whether safety is better served by a system that prohibits reassessment altogether or by one that permits courts to evaluate current risk after substantial time has passed.

Accountability

Another concern is that resentencing diminishes accountability by revisiting judgments already rendered. This framing assumes that accountability is static and fully exhausted at the moment of sentencing.

Yet sentencing itself incorporates multiple goals, including retribution, deterrence, incapacitation, and rehabilitation. A sentence imposed decades earlier reflects predictive judgments about future risk and proportional punishment at a particular moment in time. If those predictive assumptions change, reassessment does not negate accountability; it evaluates whether accountability has been satisfied.

Long-term incarceration should not measure accountability solely by duration. It should reflect whether continued confinement meaningfully advances the purposes for which the sentence was imposed. If incapacitation no longer serves a substantial preventive function, and if rehabilitation has occurred, the proportional justification for continued incarceration must be examined rather than presumed.

The American Law Institute's revised Model Penal Code recommends judicial sentence review after 15 years for individuals serving lengthy prison terms, recognizing that extreme punishment warrants periodic reassessment.⁹⁵ The American Bar Association has similarly urged governments to enact legislation permitting courts to conduct second look reviews for individuals who have been incarcerated for ten years.⁹⁶ These recommendations reflect an institutional acknowledgment that finality must be balanced against proportionality and evolving evidence. It is worth noting, too, that the carceral system's own conception of accountability — measured in years of confinement — is not the only framework available, and arguably not the most coherent one. Restorative justice scholars and practitioners have

long argued that genuine accountability involves acknowledgment of harm, direct engagement with those affected, and active repair, none of which incarceration reliably produces.⁹⁷ Many survivors, as documented in Section 10 of this report, express precisely this: they want recognition, remorse, and the assurance that harm will not recur, not simply the continuation of punishment. A sentencing system capable of reassessment is better positioned to support those forms of accountability than one locked into permanent confinement as its primary response to harm.

Second Look review does not erase the original conviction, nor does it invalidate the harm caused. Instead, it permits courts to determine whether continued incarceration remains worthwhile and proportionate in light of years already served and evidence of transformation. Accountability, in this framework, is measured not solely by the original sentence length but by the relationship between time served and present justification.

Retribution and Its Limits

There is, however, a harder objection that the public safety evidence does not by itself answer. Some opponents argue not from risk but from principle: that certain crimes, particularly intentional homicide, warrant decades of incarceration regardless of who a person has become — that the length of the sentence is a statement about the gravity of the harm, not a prediction about future danger. This deserves a direct response.

Retributive theories of punishment have always rested on proportionality: the idea that punishment should correspond to the offense and to the moral culpability of the person who committed it. But the sentences at issue here weren't imposed in some idealized vacuum of principled moral reasoning. They were handed down during an era of political fear and punitive excess, under statutory schemes built on mandatory minimums and sentencing enhancements that stripped judges of discretion, often by judges who expressed open contempt for the people before them and made little pretense of individualized assessment. Whatever retribution requires in theory, it requires consistency and principle in practice. Sentences shaped by political pressure, statutory rigidity, and judicial hubris aren't clean expressions of proportionate moral judgment. To decline to revisit them is not fidelity to retributive principle so much as deference to its distortion.

Countries that take homicide at least as seriously as New York does have concluded that even the gravest offenses don't require permanent incarceration to satisfy the demands of justice — a conclusion that reflects not leniency but a more honest reckoning with the purpose of punishment.

Institutional Legitimacy

Concerns also arise about finality and institutional stability. Critics may argue that permitting resentencing undermines the authority of courts and weakens confidence in the criminal legal system.

Finality serves important functions, including certainty and closure. Yet the legal system already revisits judgments in numerous contexts, including appellate review, post-conviction relief, habeas corpus proceedings, and executive clemency. Structured reconsideration after 15 or 20 years is not an abandonment of finality; it is a recognition that extreme punishment warrants periodic evaluation.

By embedding resentencing within judicial procedures, articulating clear eligibility criteria, and requiring reasoned decisions, the Second Look Act enhances rather than diminishes institutional legitimacy. It replaces ad hoc discretion with structured review and aligns sentencing practice with contemporary empirical understanding.

Indeed, objections to Second Look legislation are best understood not as categorical barriers but as design challenges. Public safety, accountability, survivor participation, and institutional stability are not arguments against reconsideration so much as criteria by which reconsideration should be structured.

PART 10

SURVIVORS, ACCOUNTABILITY, AND JUSTICE BEYOND ENDLESS PUNISHMENT

Any discussion of sentencing reform must begin by acknowledging the gravity of harm experienced by survivors of crime. Serious offenses inflict lasting physical, emotional, and psychological injury. No legal reform should obscure that reality. The question posed by Second Look legislation is not whether harm occurred or accountability matters, but whether indefinite or decades-long incarceration is the only—or most effective—means of honoring that pain.

Public discourse often assumes that longer sentences correspond directly to greater justice for survivors. Yet empirical research and survivor-led advocacy suggest a more complex reality. National surveys indicate that many survivors prioritize prevention, stability, counseling, and economic support over sentence length alone.⁹⁸ A 2024 national survey of victims of violent crime found that only 16 percent believe longer prison sentences are the most effective crime prevention strategy; by a three-to-one margin, victims identified access to jobs and housing as more effective than longer sentences. Seven out of ten victims of violence prefer sentencing policies that allow judges to consider individual circumstances over mandatory uniform sentence lengths, and a decisive majority prefer candidates who would shorten sentences and redirect savings toward prevention and treatment.⁹⁹

Bureau of Justice Statistics data further show that only about 9 percent of violent crime victims receive assistance from a victim service agency, underscoring the gap between punitive sentencing practices and the availability of survivor support infrastructure.¹⁰⁰ Extended incarceration does not automatically increase access to trauma services, financial compensation, or long-term counseling. Nor is funding for survivor services mechanically linked to sentence length. In practice, budget allocations for survivor assistance operate independently of how long an individual remains incarcerated, weakening the assumption that extended punishment necessarily advances survivor well-being. If the cost savings generated by reduced incarceration through Second Look were directed toward survivor services — trauma counseling, financial assistance, housing stability, and victim navigation — the legislation could advance both decarceration and a true investment in those who have been harmed.

Individual survivors who have supported restorative approaches illustrate their diversity concretely. After her son was murdered, Doris Hernández forgave the person responsible and founded Padres Ángeles (Parents of Angels), an organization dedicated to reducing violence through community outreach, workshops, and vigils. “I found healing for myself,” she reflected. “I believe that violence is a complex issue that requires a varied and coordinated response... The current criminal justice system’s one-size-fits-all approach doesn’t work for low-income communities of color.”¹⁰¹ Jeanne Bishop, who lost her pregnant sister, brother-in-law, and their unborn child to a teenage killer, has become a prominent advocate for second look reform after meeting in prison with the man responsible and witnessing his transformation. She has argued that punishment alone does not define justice: “An alternative type of ‘finality’ exists... It happens when the work of punishment, penitence, remorse, and rehabilitation is complete, and a young offender can re-enter society.” Melody Brown, whose husband was murdered by a teenager, similarly came to support his release under Washington, DC’s second look legislation after learning of his remorse, and later advocated for expanding the law’s eligibility to crimes committed by emerging adults.¹⁰² These voices do not represent all survivors, and nothing in Second Look legislation requires survivors to reach any particular conclusion. But they underscore that the equation of justice with permanent punishment reflects one perspective among many, not an empirical consensus.

Second Look legislation does not compel survivors to adopt any particular position, nor does it eliminate opportunities for survivor participation. It places survivor perspectives inside a judicial process that weighs harm, time served, rehabilitation, and public safety together. Notice provisions and the opportunity to be heard remain integral features of the review process. By including survivor participation without converting sentencing into a plebiscite, the Act acknowledges the gravity of harm while preserving the court’s responsibility to evaluate proportionality and public safety based on current evidence.

Separating survivor support from sentence length is not a dismissal of harm. It is a recognition that healing and accountability are not reducible to the duration of incarceration. In some cases, survivors have articulated a desire for accountability that includes acknowledgment of harm, remorse, and demonstrated responsibility rather than simply prolonged confinement. Structured review can provide a forum for courts to evaluate whether those forms of accountability have materialized — and to affirm that continued incarceration must be justified by present purposes rather than by the weight of a decision made decades ago.

DART 11

PERSPECTIVES FROM INCARCERATED SCHOLARS AND IMPACTED INDIVIDUALS

To understand the possibilities, promise, and potential pitfalls of Second Look legislation, it is essential to consider the perspectives of those most central to the issue: currently incarcerated individuals in New York State. Their views carry a form of expertise rooted in both rigorous academic engagement and direct, lived experience within the criminal legal system — a combination that remains largely underrepresented in policy discourse. The insights presented here are drawn from dozens of conversations with college-educated men and women incarcerated across New York facilities who were invited to share their views on the proposed Second Look Act. Participants' perspectives are shaped by sustained engagement in higher education, critical inquiry, and personal transformation while incarcerated. Together, these experiences provide a grounded understanding of how sentencing policy operates in practice and how reforms such as Second Look may influence individual lives, institutional culture, and broader social outcomes. (For anonymity, individuals are referred to by pseudonyms only.)

When asked whether he supported Second Look legislation, Sean framed his response in terms of moral accountability and human development, as well as the distinction between past actions and present identity:

I am most definitely in favor of the Second Look legislation because all humans possess redemptive qualities, and no one should be forever defined by the worst decision they ever made. While they cannot replace what they took, those who exhibit an unrecognizable evolution from who they once were should be considered for resentencing.

Sean's response reflects a central principle underlying Second Look reforms: punishment should remain responsive to change over time.

Ray approached the question from more of a policy analysis perspective, positioning Second Look as a necessary evaluative tool within the criminal

legal system. He sees it as a means to assess whether the objectives of the criminal legal system have been met before the completion of a sentence:

The Second Look Act would provide a much-needed assessment tool to gauge the degree of a person’s rehabilitation from the time of sentencing to the point of review. It would determine whether the objectives of our carceral system—deterrence, retribution, and rehabilitation—have been achieved before the conclusion of a sentence. It provides an invaluable mechanism of hindsight and the opportunity to assess rehabilitation alongside a person’s criminality and sources of trauma that were never considered by the court. Such legislation may also allow those directly harmed by crime, and the broader public, access to what Danielle Sered of Common Justice refers to as a “coherent narrative” of the harm they suffered.

Ray frames Second Look not as leniency but as structured accountability. Invoking the stated goals of punishment and the idea of a “coherent narrative,” he highlights how resentencing review can bolster, rather than undermine, legitimacy by reassessing whether a sentence still serves its intended purpose over time.

Others emphasized the social consequences of prolonged incarceration after rehabilitation has already occurred. Michael argued that such continued incarceration ultimately harms society at large:

It is long overdue for New York State to catch up to its sister states—California, Illinois, Indiana, and others—by enacting the Second Look Act. The purely punitive nature of New York’s archaic sentencing practices fails to consider the power of rehabilitation and the humanity of incarcerated people. Imprisonment alone does not ensure public safety, particularly when over 90 percent of incarcerated people will one day return to society. Rehabilitative programs—therapeutic, educational, vocational, and voluntary—do increase public safety by providing individuals with the tools to reenter society as productive members. Once a person can demonstrate rehabilitation, continued incarceration does more harm than good.

When asked what passage of the Act would mean personally, participants consistently emphasized recognition and dignity. Jayden, incarcerated since adolescence, described the psychological toll of permanent punishment:

To me, the passage of the Second Look Act would mean that society has begun to embrace incarcerated people as human beings. It would show that society recognizes our humanity and acknowledges that we

see it in ourselves. I have been incarcerated for over thirty years, since my adolescence, and for much of that time, I felt no one believed in my growth or redemption. That feeling breeds hopelessness and removes the incentive to change. Why make the effort if people will only ever see you as your crime? Yet many of us have anyway. Despite society turning its back on us—often long before incarceration—we have matured into adults with a deep understanding of our humanity and that of others.

Jayden’s account illustrates how hopelessness can function as a barrier to rehabilitation. His remarks suggest that Second Look legislation operates not only as a form of legal remediation, but as a signal that effort, growth, and accountability are genuinely valued.

Several participants—particularly women incarcerated scholars—also articulated Second Look as a future-facing commitment to mentorship, collective transformation, and resistance to despair. Dani framed Second Look as both a moral necessity and a mechanism for continued accountability:

Increasing pathways to release for those who demonstrate genuine transformation is both a moral imperative and a practical necessity. Individuals, even those convicted of violent crimes, are capable of profound change, and our justice system must evolve to reflect the potential for human growth. Through my personal growth, academic achievements, and dedication to rehabilitative efforts, I aim to demonstrate that meaningful review of long sentences serves both justice and humanity. Appearing before a judge for sentence review represents more than an opportunity for personal freedom—it is a chance to continue fostering transformation, both within myself and in others.

Dani emphasized that the significance of Second Look lies not only in the possibility of release, but in what release could enable: a lifetime of responsibility and service. She described hope not as denial, but as a form of active resistance against the despair that decades of incarceration can impose:

Hope is not just a feeling—it is a form of resistance against the despair that decades behind bars can impose. It is what allows us to pursue education, to grow, and to believe that change remains possible even when sentences feel permanent.

Dani’s perspective expands the function of Second Look beyond individual

review to something larger. Her vision of returning to prison one day as a mentor rather than a captive underscores how sentence review can cultivate leadership, accountability, and prosocial identity that extend well beyond the individual case.

Michael similarly emphasized the sense of motivation and purpose that the prospect of review can provide:

The passage of the Second Look Act means everything to me. It gives me hope. I have been incarcerated for the entirety of my adult life and have spent over two decades serving a life-without-parole sentence. I dedicate my time to being the best version of myself and to serving others who are striving to improve their lives. Helping people recognize their value is deeply fulfilling. I want to repay my debt to society by helping to heal the communities I once harmed. I know I would be an asset to society if given the opportunity, and the Second Look Act may be my only chance to truly do so.

Here, Second Look is conceived as a pathway to restorative contribution rather than mere release. Michael goes on to explain how Second Look legislation could reshape prison culture itself, counteracting the dominance of hopelessness and gang involvement:

Prison culture is largely shaped by hopelessness, which fuels gang involvement. Prison is a microcosm of the poverty-stricken communities many incarcerated people come from. When people feel they have no value or purpose, hopelessness leads to destruction... The Second Look Act would instill hope and purpose, particularly among young people entering prison. It would give individuals something to work toward—to set goals, accomplish them, and see tangible rewards. Faced with the choice between gang involvement and meaningful rehabilitation with the possibility of earlier release, most would choose the latter.

Several participants stressed that Second Look does not guarantee release but guarantees opportunity. As Dale explained:

Without the Second Look Act, people in prison are condemned to years of punishment with nothing to work toward. The legislation does not guarantee release, but it does guarantee opportunity. It encourages people to actively engage in self-development and rehabilitation. Purpose and meaning are reinforced when effort is recognized. The Second Look Act sends a powerful message: it is never too late. Hope allows people to reimagine their lives, and that hope is essential to

personal transformation. Second Look legislation puts that possibility in writing.

These themes were echoed in structured written responses collected by the Center for Community Alternatives from more than 200 incarcerated men in New York State prisons. Respondents consistently emphasized individualized review grounded in rehabilitation and accountability rather than automatic release. Many described educational attainment, peer mentorship, trauma-informed growth, vocational training, and detailed reentry plans, including employment offers and family reintegration.

Across interviews and written responses, a consistent principle emerged: individuals simply seek recognition of change. These are arguments — careful, often empirically grounded, attentive to the system’s stated purposes — for why the system should do what it claims to want to do. That is not leniency. It is the basic premise of any sentencing framework that takes rehabilitation seriously, a premise the system has written into law but all too rarely honors.

The insights of these incarcerated scholars demonstrate that Second Look would advance public safety by actually encouraging personal transformation rather than condemning some to punishment without end. In this sense, they see the Second Look Act as serving not only their own interests, but the broader interests of the communities from which they came and to which they hope one day to return.

“

Hope is not just a feeling — it is a form of resistance against the despair that decades behind bars can impose.

—Dani, Incarcerated scholar

DISCUSSION: TOWARD A SENTENCING FRAMEWORK CAPABLE OF CHANGE

New York’s sentencing framework, particularly as applied to those serving long and life sentences, has drifted far from its stated purposes. It was built during a period of punitive escalation that the state itself has since acknowledged as excessive. It operates without any mechanism for asking whether the sentences it imposed decades ago still make sense. And it continues to hold thousands of people — most of them Black and Latino, most of them aging, most of them posing no measurable threat to public safety — under conditions that serve no articulable purpose beyond continuity with prior decisions. Under such conditions, the Second Look Act should be understood not as a discretionary reform but as a structural response to a system that has grown rigid where it should remain evaluative.

This conclusion rests on converging evidence across disciplines. Criminological research demonstrates that individuals age out of crime and that recidivism rates decline sharply after long periods of incarceration. Fiscal analyses show that extended imprisonment of elderly individuals carries significant costs with diminishing returns. Legal scholarship increasingly recognizes that sentencing courts cannot reliably predict decades of risk or moral development at a single moment in time. The voices of incarcerated scholars further illuminate how the absence of meaningful reassessment mechanisms corrodes institutional culture, weakens incentives for growth, and undermines the rehabilitative aims the system purports to advance.

What the State Owes

The people most directly affected by this debate are not abstractions. They are individuals who have spent decades inside, who have changed in ways the original sentencing court could not have foreseen, and who currently have no legal avenue to ask whether any of that matters. Second Look creates that avenue.

It does not fix the system that produced these sentences — the racial disparities, the political pressures, the mandatory minimums that stripped judges of discretion. It does not compensate for decades lost. It does not ask whether the punishment was just to begin with. It asks something narrower: whether, given who a person is today and the years that have passed, continued confinement can be defended on present grounds.

That is a minimal demand. It places one obligation on the state: to make a case for keeping someone confined, now, before a court, based on current evidence rather than the fact of a judgment made many years ago. It does not guarantee what happens when that case is made. Many petitions will be denied. But the requirement that the state make the case at all would be, for the thousands of people serving decades in New York prisons without any such process, not a small thing.

The Necessity of Breadth

Comparative evidence underscores a central lesson: the scope of eligibility determines whether Second Look functions as meaningful reform or symbolic gesture. Prosecutor-initiated models and categorical exclusions routinely leave untouched those most affected by excessive sentencing, particularly individuals serving decades for violent offenses.

In New York, where the majority of the prison population is incarcerated for violent felonies and where racial disparities are most pronounced among those serving life and virtual life sentences, a narrow framework risks reproducing existing inequities. A comprehensive Second Look Act should therefore be retroactive, broadly accessible, and grounded in individualized judicial review. Even then, such legislation promises only opportunity, not outcome. It ensures that continued incarceration must be justified by present evidence rather than historical inertia.

Beyond Sentencing Reform

Although framed as sentencing reform, Second Look carries broader implications for how justice is conceived. It challenges the assumption that punishment imposed at one moment can remain proportionate across decades of human development. By compelling courts to revisit sentences in light of new information, it reintroduces evaluation into a system long defined by finality.

Prolonged incarceration generates collateral harm to families, communities, and institutions, often without producing commensurate public safety gains. In that context, Second Look can be understood as a structural harm-

reduction measure within an otherwise punitive framework. It does not erase accountability; it situates accountability within an ongoing assessment of necessity and proportionality.

It is important to be precise about what “collateral harm” means in practice. Incarceration is not a neutral container that holds a person until release. It is an environment that degrades physical and mental health, severs attachment to children and partners, destroys employment prospects, produces trauma, and — as the rising suicide rate in New York’s prisons makes viscerally plain — all too often ends lives. The communities from which incarcerated people are overwhelmingly drawn — low-income, disproportionately Black and Latino, subject to concentrated poverty and disinvestment — are also the communities most depleted by the removal of parents, caregivers, workers, and neighbors that mass incarceration requires. The violence of crime and the violence of the carceral response are not opposites. They are entangled. A system that addresses the former primarily through the latter has not resolved the problem of harm; it has redistributed it in ways that rarely reach those who caused harm or those most in need of repair.

Finally, Second Look expands the moral and legal vocabulary of sentencing by compelling courts to consider rehabilitation, remorse, and responsibility as dynamic factors rather than static attributes. It affirms that accountability evolves over time and that justice need not require unceasing imprisonment. By curtailing extreme sentences, comprehensive Second Look legislation would permit the reallocation of public resources toward survivor services, reintegration support, and community-based safety strategies that more effectively advance long-term stability, dignity, and collective well-being.

The Second Look Act responds not only to excessive sentencing but to a deeper structural question: whether a legal system committed to public safety and human dignity can remain credible if it lacks a durable mechanism for reassessing punishment over time.

CONCLUSION

RECONSIDERATION AND THE FUTURE OF SENTENCING IN NEW YORK

The Second Look Act ultimately poses a simple but consequential question: not whether individuals are capable of change, but whether the legal system is prepared to recognize that change when it occurs.

A sentencing framework that treats punishment as irrevocable risks conflating justice with confinement. By contrast, a system that permits structured reassessment acknowledges that punishment is imposed by fallible institutions, based on limited information, and within particular historical contexts. Time alters people, circumstances, knowledge, and norms. A just system must retain the capacity to respond to those changes.

Second Look legislation does not guarantee release. It does not erase harm, nullify convictions, or displace accountability. It restores judicial deliberation to cases where decades have passed and where continued incarceration must be justified by present purposes rather than past assumptions. In doing so, it affirms that proportionality is not a static judgment but an ongoing responsibility.

For New York, the stakes are significant. The state has made measurable progress in reducing certain drivers of incarceration, yet it continues to confine thousands of individuals serving extreme sentences imposed during an era of punitive expansion. Without any process for reconsideration, those sentences remain insulated from the very evidence and principles that now guide contemporary criminal justice policy.

A comprehensive, retroactive, and judicially administered Second Look framework would not resolve every inequity embedded in the system. But it would signal an important shift away from permanence or punishment as default.

In that shift lies the possibility of a sentencing system more aligned with empirical evidence, constitutional proportionality, and the enduring values of accountability, safety, and human dignity. The question before New York is not whether to abandon accountability, but whether accountability can be truly credible if it is incapable of reassessment.

A justice system genuinely committed to its stated purposes of safety, accountability, and repair should not only permit the opportunity to look again. It should regard that opportunity as a moral obligation, an acknowledgment that no sentence, however carefully imposed, is exempt from the passage of time, the accumulation of evidence, or the demands of human dignity. Second Look is not an act of mercy extended by a confident system. It is a correction demanded by the weight of what the system has done, and a small but necessary movement toward something better.

Endnotes

1 N.Y. Senate Bill S158 (2025–2026 Reg. Sess.); N.Y. Assembly Bill A1283 (2025–2026 Reg. Sess.).

2 CPL 440.20 permits a court to set aside a sentence on the ground that it was unauthorized, illegally imposed, or otherwise invalid as a matter of law. It does not provide a mechanism for reviewing sentences that were lawfully imposed but have become excessive or unjust due to evolving circumstances or the like.

3 New York’s prison population has declined by more than half since its peak in 1999, driven primarily by reduced admissions and reforms to drug sentencing. The 2009 Rockefeller Drug Law reforms allowed certain individuals serving indeterminate sentences for Class B drug felonies to petition for resentencing but explicitly excluded those with violent felony convictions. N.Y. Crim. Proc. Law § 440.46; see also Peter A. Mancuso, “Resentencing After the ‘Fall’ of Rockefeller: The Failure of the Drug Law Reform Acts of 2004 and 2005 to Remedy the Injustices of New York’s Rockefeller Drug Laws and the Compromise of 2009,” *Albany Law Review* 73 (2010): 1535. On the demographic concentration of long-serving individuals as the overall population declines, see New York State Office of the State Comptroller, *Post-COVID Trends in New York’s Aging Prison Population* (Albany: OSC, 2026), available at osc.ny.gov; Vera Institute of Justice, *New York Prison Data Hub* (2024), available at vera.org/ny-data-hub/prison.

4 Vera Institute of Justice, *New Polling Shows Strong Voter Support for Allowing Rehabilitated Incarcerated People to Safely Return Home* (New York: Vera Institute of Justice, December 2024).

5 Rowan Wilson, State of the Judiciary Address, Court of Appeals Hall, Albany, NY, February 10, 2025, as reported in Katie Honan, “New York’s Chief Judge Calls on Legislature to Pass Second Look Act,” *The City*, February 10, 2025.

6 *Ibid.*

7 Joseph A. Zayas, “Many People Who Commit Crimes Are Not Incurable,” *New York Law Journal*, January 2025, quoted in Wilson, State of the Judiciary Address, February 10, 2025.

8 Daniel F. Martuscello III, remarks at State of the Judiciary Address, Albany, NY, February 10, 2025, as reported in *The Legislative Gazette*, May 7, 2025.

9 New York State Justice Task Force, *Recommendations on Second Look Sentencing Reform* (Albany: New York State Justice Task Force, January 2024), <https://www.nyjusticetaskforce.org/pdfs/Recommendations-on-Second-Look-Sentencing-Reform.pdf>.

10 Frederic Block, *A Second Chance: A Federal Judge Decides Who Deserves It* (New York: The New Press, 2024).

11 Daniel S. Nagin, “Deterrence in the Twenty-First Century,” *Crime and Justice* 42 (2013): 199–263.

12 National Research Council, *Deterrence and the Death Penalty*, Committee on Law and Justice (Washington, DC: National Academies Press, 2012), 1–4.

13 Nagin, “Deterrence in the Twenty-First Century,” 199–263; see also National Research Council findings on severity vs. certainty of punishment.

14 Daniel S. Nagin, “Reduce Prison Populations by Reducing Life Sentences,” *Washington Post*, March 21, 2019.

15 See Julia Dressel and Hany Farid, “The Accuracy, Fairness, and Limits of Predicting Recidivism,” *Science Advances* 4, no. 1 (January 17, 2018): eaao5580, <https://www.science.org/doi/10.1126/sciadv.aao5580> (finding that commercial risk assessment tools perform no better than untrained human judgment and that predictive validity is modest).

16 Steve Zeidman, interview with authors, April 2026.

17 Sentencing transcripts on file with the CUNY Second Look Project. Identifying details withheld to protect the privacy of the individuals involved.

18 New York State Department of Corrections and Community Supervision (DOCCS), “Under Custody Report: Profile of Inmate Population,” February 1, 2024, https://doccs.ny.gov/system/files/documents/2024/02/2024_02_01-uc-profile.pdf.

- 19 New York State Assembly, “Reforming the Rockefeller Drug Laws,” legislative summary materials, <https://nyassembly.gov/comm/?id=9&sec=news&story=33953>.
- 20 New York State Office of the State Comptroller, *Post-COVID Trends in New York’s Aging Prison Population* (Albany: Office of the State Comptroller, February 2026), 3.
- 21 Correctional Association of New York, “CANY Data Portal: Under Custody,” accessed April, 2026, <https://www.correctionalassociation.org/data/dashboard-under-custody>.
- 22 New York State Department of Corrections and Community Supervision (DOCCS), “Under Custody Report: Profile of Inmate Population,” February 1, 2024, https://doccs.ny.gov/system/files/documents/2024/02/2024_02_01-uc-profile.pdf, distribution of minimum terms (months) for grand total custody population: 180–239 months (9.6%), 240+ months (20.6%), life without parole (0.9%), not coded (0.1%).
- 23 New York State Office of the State Comptroller, *Post-COVID Trends*, 2.
- 24 Center for Justice at Columbia University, *New York State’s New Death Penalty: The Death Toll of Mass Incarceration in a Post Execution Era* (New York: Columbia University, October 2021), 5–7.
- 25 Ibid., additional data from the same dataset, on file with authors.
- 26 Vera Institute of Justice, *New York Prison Population Snapshot* (January 1, 2024), <https://www.vera.org/ny-data-hub/prison>.
- 27 Ashley Nellis and Celeste Barry, *A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* (Washington, DC: The Sentencing Project, 2025), updated January 2026, 14.
- 28 The Pew Charitable Trusts, *Time Served: The High Cost, Low Return of Longer Prison Terms* (Washington, DC: The Pew Charitable Trusts, 2012), 2, <https://www.pewtrusts.org/en/research-and-analysis/reports/2012/06/06/time-served-the-high-cost-low-return-of-longer-prison-terms>.
- 29 Ashley Nellis, *Still Life: America’s Increasing Use of Life and Long-Term Sentences* (Washington, DC: The Sentencing Project, 2021), 5, <https://www.sentencingproject.org/reports/still-life-americas-increasing-use-of-life-and-long-term-sentences/>.
- 30 Soffiyah Elijah, “Elders Behind Bars in the Broad Scope of Reducing Incarceration,” in *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety*, ed. Samuel K. Roberts (New York: Center for Justice at Columbia University, November 2015), 78.
- 31 Travis Hirschi and Michael Gottfredson, “Age and the Explanation of Crime,” *American Journal of Sociology* 89, no. 3 (1983): 552–584.
- 32 Mariel Alper, Matthew R. Durose, and Joshua Markman, *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010* (Washington, DC: Bureau of Justice Statistics, 2018), 12–14, <https://bjs.ojp.gov/content/pub/pdf/rprts05p0510.pdf>.
- 33 United States Sentencing Commission, *The Effects of Aging on Recidivism Among Federal Offenders* (Washington, DC: U.S. Sentencing Commission, 2017), 3, <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>.
- 34 Laurence Steinberg, “A Social Neuroscience Perspective on Adolescent Risk-Taking,” *Developmental Review* 28, no. 1 (2008): 78–106.
- 35 Alfred Blumstein and Kiminori Nakamura, “Redemption in the Presence of Widespread Criminal Background Checks,” *Criminology* 47, no. 2 (2009): 327–359.
- 36 DOCCS, “Under Custody Report,” 10.
- 37 Columbia University Center for Justice and Release Aging People in Prison (RAPP), *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety* (New York: Center for Justice at Columbia University, 2015), IX.
- 38 New York State Office of the State Comptroller, *Post-COVID Trends*, 6.
- 39 Center for Justice at Columbia University, *Aging in Prison: Reducing Elder Incarceration and Promoting Public*

Safety (New York: Columbia University, November 2015), XI; citing New York State Department of Corrections and Community Supervision, 2010 Releases: Three Year Post Release Follow-Up (Albany: DOCCS, 2014).

40 Center for Justice at Columbia University, *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety* (New York: Columbia University, November 2015), VIII (Executive Summary).

41 Brie Williams et al., “Addressing the Aging Crisis in U.S. Criminal Justice Health Care,” *Health Affairs* 31, no. 4 (2012): 746–753.

42 Columbia University Center for Justice and Release Aging People in Prison (RAPP), *Aging in Prison*, IX; William Bunting, “The High Fiscal Costs of Incarcerating the Elderly,” in *Aging in Prison*, 35–42.

43 New York State Office of the State Comptroller, *Post-COVID Trends*, 8.

44 W.C. Bunting, “The High Fiscal Costs of Incarcerating the Elderly,” in *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety*, ed. Samuel K. Roberts (New York: Center for Justice at Columbia University, November 2015), 35–41.

45 Samuel K. Roberts and Lisa K. Sangoi, Introduction to *Aging in Prison: Reducing Elder Incarceration and Promoting Public Safety* (New York: Center for Justice at Columbia University, November 2015), X; see also Brian Fischer, “Older Adults in the New York State Prison System,” in *ibid.*, 24 (noting that DOCCS recognizes age 50 as the threshold for “elderly” classification, consistent with evidence that incarcerated people age approximately ten years in advance of their non-incarcerated peers).

46 Rachael Bedard, interview with the authors, April 2026.

47 *People v. Brisman*, 43 NY3d 322, 325 (2025).

48 Steve Zeidman, “Hochul Must Use Clemency to End Prison Crowding,” *New York Daily News*, April 2, 2026.

49 Correctional Association of New York, “Suicides in Prison More than Doubled from 2023 to 2024,” press release, August 5, 2025, <https://www.correctionalassociation.org/press-releases-archive/suicides-in-prison-more-than-doubled-from-2023-to-2024>.

50 N.Y. Correct. Law § 259-r (Medical Parole); N.Y. Correct. Law § 259-s (Medical Parole for Incapacitated Persons), available at: <https://www.nysenate.gov/legislation/laws/COR/259-R>.

51 New York State Bar Association, *Report on Compassionate Release in New York State* (Albany, NY: NYSBA, 2020), available at: <https://nysba.org/app/uploads/2020/04/Compassionate-Release-Report.pdf>.

52 Data on file with the CUNY Second Look Project (November 2023), obtained via Freedom of Information Law request to the New York State Department of Corrections and Community Supervision. The 1992–2014 figures are drawn from DOCCS’ 2014 Medical Parole Report, the last year DOCCS produced or published such a report; The 2018–2022 figures are drawn from New York State Department of Corrections and Community Supervision, *Medical Parole Legislative Report 2022* (Albany: DOCCS, 2022). The report covers applications certified to the Parole Board and does not capture the total number of individuals who sought medical parole consideration from DOCCS.

53 New York State Office of the State Comptroller, *Post-COVID Trends*.

54 Vera Institute of Justice, *New York State’s Parole System Is Broken: Fact Sheet* (New York: Vera Institute of Justice, 2022), reporting approximately 10,000–12,000 parole hearings annually and a decline in release rates from roughly 42% in 2018 to 33% in 2022, available at: <https://vera-institute.files.svdcdn.com/production/downloads/publications/new-york-states-parole-system-is-broken-fact-sheet-2022.pdf>.

55 Rachel E. Barkow, *Prisoners of Politics: Breaking the Cycle of Mass Incarceration* (Cambridge, MA: Harvard University Press, 2019), 128–134.

56 New York State Department of Corrections and Community Supervision, Annual Mortality Reports (various years).

57 N.Y. Const. art. IV, § 4 (executive clemency authority).

58 Naila Awan and Katie Rose Quandt, *Executive Inaction: States and the Federal Government Fail to Use*

Commutations as a Release Mechanism (Northampton, MA: Prison Policy Initiative, April 2022), New York appendix, <https://www.prisonpolicy.org/reports/commutations.html>.

59 Ibid.

60 Reuven Blau, “Hochul Grants Two Clemencies After Months of Inaction Leaving Hundreds Still Waiting,” *The City*, December 20, 2025.

61 Johan Sheridan, “Hochul Grants Clemency, Pardoning 11 and Commuting 2,” *News10*, December 31, 2025, <https://www.news10.com/capitol/clemency-applications-backlog-new-york/>.

62 Sahalie Donaldson, “Ahead of Christmas, Hochul Grants Pardons and Commutations to 16 People,” *City & State New York*, December 22, 2023.

63 New York State Assembly, “Reforming the Rockefeller Drug Laws,” legislative summary materials, available at: <https://nyassembly.gov/comm/?id=9&sec=news&story=33953>.

64 N.Y. Crim. Proc. Law § 440.20.

65 The Sentencing Project, *Sentencing Reform for Criminalized Survivors* (Washington, DC: The Sentencing Project, April 2023).

66 Survivors Justice Project, *DVSJA Data*, February 2026, <https://www.sjpnny.org/dvsjadata>.

67 See generally The Sentencing Project, *Sentencing Reform for Criminalized Survivors*.

68 N.Y. Penal Law §§ 220.00 et seq.; see also Michael Tonry, *Thinking About Crime: Sense and Sensibility in American Penal Culture* (New York: Oxford University Press, 2004), 84–90.

69 Data Collaborative for Justice, *Trends in the New York State Prison Population, 2008–2023* (New York: John Jay College of Criminal Justice, 2023), documenting persistent racial disparities in incarceration rates, <https://datacollaborativeforjustice.org/work/jail-populations/trends-in-the-new-york-state-prison-population-2008-2023/>.

70 Franklin E. Zimring, *The Great American Crime Decline* (New York: Oxford University Press, 2007).

71 New York State Assembly, “Reforming the Rockefeller Drug Laws,” <https://nyassembly.gov/comm/?id=9&sec=news&story=33953>.

72 *Miller v. Alabama*, 567 U.S. 460 (2012); Laurence Steinberg, “A Social Neuroscience Perspective on Adolescent Risk-Taking,” *Developmental Review* 28, no. 1 (2008): 78–106.

73 Cal. Penal Code § 3051 (Youth Offender Parole Hearings).

74 District of Columbia Code § 24-403.03, “Modification of an imposed term of imprisonment for violations of law committed before 25 years of age,” current through 2024, <https://code.dccouncil.gov/us/dc/council/code/sections/24-403.03>.

75 Becky Feldman and Sara Cohbra, *The Second Look Movement: An Assessment of the Nation’s Sentence Review Laws* (Washington, DC: The Sentencing Project, 2024; updated 2025), 4–5.

76 Feldman and Cohbra, *The Second Look Movement*, 18–25.

77 Ibid., 23 (state-by-state summary table identifying age restrictions).

78 Conn. Gen. Stat. § 53a-39; Feldman and Cohbra, *The Second Look Movement*, 23 (noting exclusion of mandatory minimum sentences).

79 Del. Code Ann. tit. 11, § 4217; Feldman and Cohbra, *The Second Look Movement*, 23.

80 Cal. Penal Code § 1172.1 (formerly § 1170(d)(1)); Feldman and Cohbra, *The Second Look Movement*, 21–22 (describing prosecutor- and corrections-initiated recall procedures).

81 See, e.g., Cal. Penal Code § 1172.6 (limited statutory resentencing categories); Feldman and Cohbra, *The Second Look Movement*, 18–24 (discussing population-specific statutes).

82 Feldman and Cohbra, *Second Look Movement*, 23–24 (distinguishing youth-limited, population-specific, and prosecutor-initiated frameworks).

83 Katherine Beckett and Allison Goldberg, “Prosecutor-Initiated Resentencing in Washington: The Impact of

- SB6164” (University of Washington, June 5, 2024).
- 84 N.Y. Senate Bill S158 (2025–2026 Reg. Sess.); N.Y. Assembly Bill A1283 (2025–2026 Reg. Sess.).
- 85 Feldman and Cohbra, *The Second Look Movement*, 15-16.
- 86 National Association of Criminal Defense Lawyers, *Second Look, Second Chance: The NACDL Model Second Look Legislation*, Section VIII (Funding), <https://www.nacdl.org/getattachment/4b6c1a49-f5e9-4db8-974b-a90110a6c429/nacdl-model-second-look-legislation.pdf>.
- 87 Steve Zeidman, interview with authors, April 2026.
- 88 New York State Justice Task Force, *Recommendations on Second Look Sentencing Reform* (January 2024), available at <https://www.nyjusticetaskforce.org/pdfs/Recommendations-on-Second-Look-Sentencing-Reform.pdf>.
- 89 Nazgol Ghandnoosh, *A Second Look at Injustice* (Washington, DC: The Sentencing Project, 2021), 30–31 (citing University of Washington study on Washington State prosecutor-initiated resentencing).
- 90 See, e.g., Alene Tchekmedyan, “L.A.’s New DA Moves to Dismantle Gascón’s Resentencing Unit,” *Los Angeles Times*, January 2025.
- 91 Feldman and Cohbra, *The Second Look Movement*.
- 92 J.J. Prescott, Benjamin Pyle, and Sonja B. Starr, “Understanding Violent-Crime Recidivism,” *Notre Dame Law Review* 95 (2020): 1688 (Table 6).
- 93 *Ibid.*, 1688 (reporting 1% three-year new-crime reincarceration rate for individuals aged 55+ previously imprisoned for violent crimes).
- 94 United States Sentencing Commission, *The Effects of Aging on Recidivism Among Federal Offenders* (Washington, DC: U.S. Sentencing Commission, 2017).
- 95 American Law Institute, *Model Penal Code: Sentencing*, § 6.11A (Proposed Final Draft, 2017), recommending judicial review after 15 years for lengthy terms.
- 96 American Bar Association, House of Delegates Resolution 502, Second Look Sentencing (August 2022), available at <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/502-annual-2022.pdf>.
- 97 Danielle Sered, *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair* (New York: The New Press, 2019).
- 98 Alliance for Safety and Justice, *Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice* (2016), <https://allianceforsafetyandjustice.org>.
- 99 Alliance for Safety and Justice, *Crime Survivors Speak 2024: A National Survey of Victims’ Views on Safety and Justice* (2024), 4–5, 9–11.
- 100 Bureau of Justice Statistics, *Criminal Victimization*, 2019 (Washington, DC: U.S. Department of Justice, 2020), reporting that approximately 9 percent of violent crime victims received assistance from a victim service agency, <https://bjs.ojp.gov/content/pub/pdf/cv19.pdf>.
- 101 Alliance for Safety and Justice, *Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice* (2016), 22.
- 102 Ghandnoosh, *A Second Look at Injustice*, 14 (Jeanne Bishop), 24 (Melody Brown).

